

109TH CONGRESS
1ST SESSION

H. R. 1268

AN ACT

Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 That the following sums are appropriated, out of any
 2 money in the Treasury not otherwise appropriated, for the
 3 fiscal year ending September 30, 2005, and for other pur-
 4 poses, namely:

5 **DIVISION A—EMERGENCY SUP-**
 6 **PLEMENTAL APPROPRIA-**
 7 **TIONS ACT FOR DEFENSE,**
 8 **THE GLOBAL WAR ON TER-**
 9 **ROR, AND TSUNAMI RELIEF,**
 10 **2005**

11 TITLE I—DEFENSE-RELATED APPROPRIATIONS

12 CHAPTER 1

13 DEPARTMENT OF DEFENSE

14 DEPARTMENT OF DEFENSE—MILITARY

15 MILITARY PERSONNEL

16 MILITARY PERSONNEL, ARMY

17 For an additional amount for “Military Personnel,
 18 Army”, \$11,779,642,000: *Provided*, That the amounts
 19 provided under this heading are designated as an emer-
 20 gency requirement pursuant to section 402 of the con-
 21 ference report to accompany S. Con. Res. 95 (108th Con-
 22 gress).

23 MILITARY PERSONNEL, NAVY

24 For an additional amount for “Military Personnel,
 25 Navy”, \$534,080,000: *Provided*, That the amounts pro-

1 vided under this heading are designated as an emergency
2 requirement pursuant to section 402 of the conference re-
3 port to accompany S. Con. Res. 95 (108th Congress).

4 MILITARY PERSONNEL, MARINE CORPS

5 For an additional amount for “Military Personnel,
6 Marine Corps”, \$1,251,726,000: *Provided*, That the
7 amounts provided under this heading are designated as
8 an emergency requirement pursuant to section 402 of the
9 conference report to accompany S. Con. Res. 95 (108th
10 Congress).

11 MILITARY PERSONNEL, AIR FORCE

12 For an additional amount for “Military Personnel,
13 Air Force”, \$1,473,472,000: *Provided*, That the amounts
14 provided under this heading are designated as an emer-
15 gency requirement pursuant to section 402 of the con-
16 ference report to accompany S. Con. Res. 95 (108th Con-
17 gress).

18 RESERVE PERSONNEL, ARMY

19 For an additional amount for “Reserve Personnel,
20 Army”, \$40,327,000: *Provided*, That the amounts pro-
21 vided under this heading are designated as an emergency
22 requirement pursuant to section 402 of the conference re-
23 port to accompany S. Con. Res. 95 (108th Congress).

1 RESERVE PERSONNEL, NAVY

2 For an additional amount for “Reserve Personnel,
3 Navy”, \$11,111,000: *Provided*, That the amounts pro-
4 vided under this heading are designated as an emergency
5 requirement pursuant to section 402 of the conference re-
6 port to accompany S. Con. Res. 95 (108th Congress).

7 RESERVE PERSONNEL, MARINE CORPS

8 For an additional amount for “Reserve Personnel,
9 Marine Corps”, \$4,115,000: *Provided*, That the amounts
10 provided under this heading are designated as an emer-
11 gency requirement pursuant to section 402 of the con-
12 ference report to accompany S. Con. Res. 95 (108th Con-
13 gress).

14 RESERVE PERSONNEL, AIR FORCE

15 For an additional amount for “Reserve Personnel,
16 Air Force”, \$130,000: *Provided*, That the amounts pro-
17 vided under this heading are designated as an emergency
18 requirement pursuant to section 402 of the conference re-
19 port to accompany S. Con. Res. 95 (108th Congress).

20 NATIONAL GUARD PERSONNEL, ARMY

21 For an additional amount for “National Guard Per-
22 sonnel, Army”, \$430,300,000: *Provided*, That the
23 amounts provided under this heading are designated as
24 an emergency requirement pursuant to section 402 of the

1 conference report to accompany S. Con. Res. 95 (108th
2 Congress).

3 NATIONAL GUARD PERSONNEL, AIR FORCE

4 For an additional amount for “National Guard Per-
5 sonnel, Air Force”, \$91,000: *Provided*, That the amounts
6 provided under this heading are designated as an emer-
7 gency requirement pursuant to section 402 of the con-
8 ference report to accompany S. Con. Res. 95 (108th Con-
9 gress).

10 OPERATION AND MAINTENANCE

11 OPERATION AND MAINTENANCE, ARMY

12 For an additional amount for “Operation and Main-
13 tenance, Army”, \$17,366,004,000: *Provided*, That the
14 amounts provided under this heading are designated as
15 an emergency requirement pursuant to section 402 of the
16 conference report to accompany S. Con. Res. 95 (108th
17 Congress).

18 OPERATION AND MAINTENANCE, NAVY

19 For an additional amount for “Operation and Main-
20 tenance, Navy”, \$3,030,801,000: *Provided*, That the
21 amounts provided under this heading are designated as
22 an emergency requirement pursuant to section 402 of the
23 conference report to accompany S. Con. Res. 95 (108th
24 Congress).

1 OPERATION AND MAINTENANCE, MARINE CORPS

2 For an additional amount for “Operation and Main-
3 tenance, Marine Corps”, \$982,464,000: *Provided*, That
4 the amounts provided under this heading are designated
5 as an emergency requirement pursuant to section 402 of
6 the conference report to accompany S. Con. Res. 95
7 (108th Congress).

8 OPERATION AND MAINTENANCE, AIR FORCE

9 For an additional amount for “Operation and Main-
10 tenance, Air Force”, \$5,769,450,000: *Provided*, That the
11 amounts provided under this heading are designated as
12 an emergency requirement pursuant to section 402 of the
13 conference report to accompany S. Con. Res. 95 (108th
14 Congress).

15 OPERATION AND MAINTENANCE, DEFENSE-WIDE

16 For an additional amount for “Operation and Main-
17 tenance, Defense-Wide”, \$3,061,300,000 (reduced by
18 \$1,000,000) (increased by \$1,000,000), of which—

19 (1) not to exceed \$25,000,000 may be used for
20 the Combatant Commander Initiative Fund, to be
21 used in support of Operation Iraqi Freedom and Op-
22 eration Enduring Freedom; and

23 (2) up to \$1,220,000,000, to remain available
24 until expended, may be used for payments to reim-
25 burse Pakistan, Jordan, and other key cooperating

1 nations, for logistical, military, and other support
2 provided, or to be provided, to United States mili-
3 tary operations, notwithstanding any other provision
4 of law: *Provided*, That such payments may be made
5 in such amounts as the Secretary of Defense, with
6 the concurrence of the Secretary of State, and in
7 consultation with the Director of the Office of Man-
8 agement and Budget, may determine, in his discre-
9 tion, based on documentation determined by the Sec-
10 retary of Defense to adequately account for the sup-
11 port provided, and such determination is final and
12 conclusive upon the accounting officers of the United
13 States, and 15 days following notification to the ap-
14 propriate congressional committees: *Provided further*,
15 That the Secretary of Defense shall provide quar-
16 terly reports to the Committees on Appropriations
17 on the use of funds provided in this paragraph: *Pro-*
18 *vided further*, That the amounts provided under this
19 heading are designated as an emergency requirement
20 pursuant to section 402 of the conference report to
21 accompany S. Con. Res. 95 (108th Congress).

22 OPERATION AND MAINTENANCE, ARMY RESERVE

23 For an additional amount for “Operation and Main-
24 tenance, Army Reserve”, \$8,154,000: *Provided*, That the
25 amounts provided under this heading are designated as

1 an emergency requirement pursuant to section 402 of the
2 conference report to accompany S. Con. Res. 95 (108th
3 Congress).

4 OPERATION AND MAINTENANCE, NAVY RESERVE

5 For an additional amount for “Operation and Main-
6 tenance, Navy Reserve”, \$75,164,000: *Provided*, That the
7 amounts provided under this heading are designated as
8 an emergency requirement pursuant to section 402 of the
9 conference report to accompany S. Con. Res. 95 (108th
10 Congress).

11 OPERATION AND MAINTENANCE, MARINE CORPS

12 RESERVE

13 For an additional amount for “Operation and Main-
14 tenance, Marine Corps Reserve”, \$24,920,000: *Provided*,
15 That the amounts provided under this heading are des-
16 ignated as an emergency requirement pursuant to section
17 402 of the conference report to accompany S. Con. Res.
18 95 (108th Congress).

19 OPERATION AND MAINTENANCE, ARMY NATIONAL

20 GUARD

21 For an additional amount for “Operation and Main-
22 tenance, Army National Guard”, \$188,779,000: *Provided*,
23 That the amounts provided under this heading are des-
24 ignated as an emergency requirement pursuant to section

1 402 of the conference report to accompany S. Con. Res.
2 95 (108th Congress).

3 OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

4 For an additional amount for “Overseas Humanitarian,
5 tarian, Disaster, and Civic Aid”, \$10,000,000, to remain
6 available until September 30, 2006: *Provided*, That the
7 amounts provided under this heading are designated as
8 an emergency requirement pursuant to section 402 of the
9 conference report to accompany S. Con. Res. 95 (108th
10 Congress).

11 AFGHANISTAN SECURITY FORCES FUND

12 (INCLUDING TRANSFER OF FUNDS)

13 For the “Afghanistan Security Forces Fund”,
14 \$1,285,000,000, to remain available until September 30,
15 2006: *Provided*, That such funds shall be available to the
16 Secretary of Defense, notwithstanding any other provision
17 of law, for the purpose of allowing the Commander, Com-
18 bined Forces Command-Afghanistan, or the Secretary’s
19 designee to provide assistance, with the concurrence of the
20 Secretary of State, to the security forces of Afghanistan
21 including the provision of equipment, supplies, services,
22 training, facility and infrastructure repair, renovation, and
23 construction, and funding: *Provided further*, That the au-
24 thority to provide assistance under this section is in addi-
25 tion to any other authority to provide assistance to foreign

1 nations: *Provided further*, That the Secretary of Defense
2 may transfer the funds provided herein to appropriations
3 for military personnel; operation and maintenance; Over-
4 seas Humanitarian, Disaster, and Civic Aid; procurement;
5 research, development, test and evaluation; and defense
6 working capital funds to accomplish the purposes provided
7 herein: *Provided further*, That this transfer authority is
8 in addition to any other transfer authority available to the
9 Department of Defense: *Provided further*, That upon a de-
10 termination that all or part of the funds so transferred
11 from this appropriation are not necessary for the purposes
12 provided herein, such amounts may be transferred back
13 to this appropriation: *Provided further*, That contributions
14 of funds for the purposes provided herein from any person,
15 foreign government, or international organization may be
16 credited to this Fund, and used for such purposes: *Pro-*
17 *vided further*, That the Secretary of Defense shall, not
18 fewer than 5 days prior to making transfers from this ap-
19 propriation, notify the congressional defense committees
20 in writing of the details of any such transfer: *Provided*
21 *further*, That the Secretary shall submit a report no later
22 than 30 days after the end of each fiscal quarter to the
23 congressional defense committees summarizing the details
24 of the transfer of funds from this appropriation: *Provided*
25 *further*, That the amounts provided under this heading are

1 designated as an emergency requirement pursuant to sec-
2 tion 402 of the conference report to accompany S. Con.
3 Res. 95 (108th Congress).

4 IRAQ SECURITY FORCES FUND

5 (INCLUDING TRANSFER OF FUNDS)

6 For the “Iraq Security Forces Fund”,
7 \$5,700,000,000, to remain available until September 30,
8 2006: *Provided*, That such funds shall be available to the
9 Secretary of Defense, notwithstanding any other provision
10 of law, for the purpose of allowing the Commander, Multi-
11 National Security Transition Command—Iraq, or the Sec-
12 retary’s designee to provide assistance, with the concur-
13 rence of the Secretary of State, to the security forces of
14 Iraq including the provision of equipment, supplies, serv-
15 ices, training, facility and infrastructure repair, renova-
16 tion, and construction, and funding: *Provided further*,
17 That the authority to provide assistance under this section
18 is in addition to any other authority to provide assistance
19 to foreign nations: *Provided further*, That the Secretary
20 of Defense may transfer the funds provided herein to ap-
21 propriations for military personnel; operation and mainte-
22 nance; Overseas Humanitarian, Disaster, and Civic Aid;
23 procurement; research, development, test and evaluation;
24 and defense working capital funds to accomplish the pur-
25 poses provided herein: *Provided further*, That this transfer

1 authority is in addition to any other transfer authority
2 available to the Department of Defense: *Provided further*,
3 That upon a determination that all or part of the funds
4 so transferred from this appropriation are not necessary
5 for the purposes provided herein, such amounts may be
6 transferred back to this appropriation: *Provided further*,
7 That contributions of funds for the purposes provided
8 herein from any person, foreign government, or inter-
9 national organization may be credited to this Fund, and
10 used for such purposes: *Provided further*, That, notwith-
11 standing any other provision of law, from funds made
12 available under this heading, up to \$99,000,000 may be
13 used to provide assistance to the Government of Jordan
14 to establish a regional training center designed to provide
15 comprehensive training programs for regional military and
16 security forces and military and civilian officials, to en-
17 hance the capability of such forces and officials to respond
18 to existing and emerging security threats in the region:
19 *Provided further*, That assistance authorized by the pre-
20 ceding proviso may include the provision of facilities,
21 equipment, supplies, services, training and funding, and
22 the Secretary of Defense may transfer funds to any Fed-
23 eral agency for the purpose of providing such assistance:
24 *Provided further*, That the Secretary of Defense shall, not
25 fewer than 5 days prior to making transfers from this ap-

1 appropriation, notify the congressional defense committees
2 in writing of the details of any such transfer: *Provided*
3 *further*, That the Secretary shall submit a report no later
4 than 30 days after the end of each fiscal quarter to the
5 congressional defense committees summarizing the details
6 of the transfer of funds from this appropriation: *Provided*
7 *further*, That the amounts provided under this heading are
8 designated as an emergency requirement pursuant to sec-
9 tion 402 of the conference report to accompany S. Con.
10 Res. 95 (108th Congress).

11 PROCUREMENT

12 AIRCRAFT PROCUREMENT, ARMY

13 For an additional amount for “Aircraft Procurement,
14 Army”, \$458,677,000, to remain available until Sep-
15 tember 30, 2007: *Provided*, That the amounts provided
16 under this heading are designated as an emergency re-
17 quirement pursuant to section 402 of the conference re-
18 port to accompany S. Con. Res. 95 (108th Congress).

19 MISSILE PROCUREMENT, ARMY

20 For an additional amount for “Missile Procurement,
21 Army”, \$340,536,000, to remain available until Sep-
22 tember 30, 2007: *Provided*, That the amounts provided
23 under this heading are designated as an emergency re-
24 quirement pursuant to section 402 of the conference re-
25 port to accompany S. Con. Res. 95 (108th Congress).

1 PROCUREMENT OF WEAPONS AND TRACKED COMBAT
2 VEHICLES, ARMY

3 For an additional amount for “Procurement of Weap-
4 ons and Tracked Combat Vehicles, Army”,
5 \$2,678,747,000, to remain available until September 30,
6 2007: *Provided*, That the amounts provided under this
7 heading are designated as an emergency requirement pur-
8 suant to section 402 of the conference report to accom-
9 pany S. Con. Res. 95 (108th Congress).

10 PROCUREMENT OF AMMUNITION, ARMY

11 For an additional amount for “Procurement of Am-
12 munition, Army”, \$532,800,000, to remain available until
13 September 30, 2007: *Provided*, That the amounts provided
14 under this heading are designated as an emergency re-
15 quirement pursuant to section 402 of the conference re-
16 port to accompany S. Con. Res. 95 (108th Congress).

17 OTHER PROCUREMENT, ARMY

18 (INCLUDING TRANSFER OF FUNDS)

19 For an additional amount for “Other Procurement,
20 Army”, \$6,634,905,000, to remain available until Sep-
21 tember 30, 2007, of which \$85,000,000 shall be derived
22 by transfer from “Iraq Freedom Fund”: *Provided*, That
23 the amounts provided under this heading are designated
24 as an emergency requirement pursuant to section 402 of

1 the conference report to accompany S. Con. Res. 95
2 (108th Congress).

3 AIRCRAFT PROCUREMENT, NAVY

4 For an additional amount for “Aircraft Procurement,
5 Navy”, \$200,295,000, to remain available until September
6 30, 2007: *Provided*, That the amounts provided under this
7 heading are designated as an emergency requirement pur-
8 suant to section 402 of the conference report to accom-
9 pany S. Con. Res. 95 (108th Congress).

10 WEAPONS PROCUREMENT, NAVY

11 For an additional amount for “Weapons Procure-
12 ment, Navy”, \$71,600,000, to remain available until Sep-
13 tember 30, 2007: *Provided*, That the amounts provided
14 under this heading are designated as an emergency re-
15 quirement pursuant to section 402 of the conference re-
16 port to accompany S. Con. Res. 95 (108th Congress).

17 PROCUREMENT OF AMMUNITION, NAVY AND MARINE
18 CORPS

19 For an additional amount for “Procurement of Am-
20 munition, Navy and Marine Corps”, \$141,735,000, to re-
21 main available until September 30, 2007: *Provided*, That
22 the amounts provided under this heading are designated
23 as an emergency requirement pursuant to section 402 of
24 the conference report to accompany S. Con. Res. 95
25 (108th Congress).

1 OTHER PROCUREMENT, NAVY

2 For an additional amount for “Other Procurement,
3 Navy”, \$78,372,000, to remain available until September
4 30, 2007: *Provided*, That the amounts provided under this
5 heading are designated as an emergency requirement pur-
6 suant to section 402 of the conference report to accom-
7 pany S. Con. Res. 95 (108th Congress).

8 PROCUREMENT, MARINE CORPS

9 For an additional amount for “Procurement, Marine
10 Corps”, \$3,588,495,000, to remain available until Sep-
11 tember 30, 2007: *Provided*, That the amounts provided
12 under this heading are designated as an emergency re-
13 quirement pursuant to section 402 of the conference re-
14 port to accompany S. Con. Res. 95 (108th Congress).

15 AIRCRAFT PROCUREMENT, AIR FORCE

16 For an additional amount for “Aircraft Procurement,
17 Air Force”, \$279,241,000, to remain available until Sep-
18 tember 30, 2007: *Provided*, That the amounts provided
19 under this heading are designated as an emergency re-
20 quirement pursuant to section 402 of the conference re-
21 port to accompany S. Con. Res. 95 (108th Congress).

22 PROCUREMENT OF AMMUNITION, AIR FORCE

23 For an additional amount for “Procurement of Am-
24 munition, Air Force”, \$6,998,000, to remain available
25 until September 30, 2007: *Provided*, That the amounts

1 provided under this heading are designated as an emer-
 2 gency requirement pursuant to section 402 of the con-
 3 ference report to accompany S. Con. Res. 95 (108th Con-
 4 gress).

5 OTHER PROCUREMENT, AIR FORCE

6 For an additional amount for “Other Procurement,
 7 Air Force”, \$2,658,527,000, to remain available until
 8 September 30, 2007: *Provided*, That the amounts provided
 9 under this heading are designated as an emergency re-
 10 quirement pursuant to section 402 of the conference re-
 11 port to accompany S. Con. Res. 95 (108th Congress).

12 PROCUREMENT, DEFENSE-WIDE

13 For an additional amount for “Procurement, De-
 14 fense-Wide”, \$646,327,000, to remain available until Sep-
 15 tember 30, 2007: *Provided*, That the amounts provided
 16 under this heading are designated as an emergency re-
 17 quirement pursuant to section 402 of the conference re-
 18 port to accompany S. Con. Res. 95 (108th Congress).

19 RESEARCH, DEVELOPMENT, TEST AND 20 EVALUATION

21 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,

22 ARMY

23 For an additional amount for “Research, Develop-
 24 ment, Test and Evaluation, Army”, \$25,170,000, to re-
 25 main available until September 30, 2006: *Provided*, That

1 the amounts provided under this heading are designated
2 as an emergency requirement pursuant to section 402 of
3 the conference report to accompany S. Con. Res. 95
4 (108th Congress).

5 RESEARCH, DEVELOPMENT, TEST, AND EVALUATION,
6 NAVY

7 For an additional amount for “Research, Develop-
8 ment, Test, and Evaluation, Navy”, \$202,051,000, to re-
9 main available until September 30, 2006: *Provided*, That
10 the amounts provided under this heading are designated
11 as an emergency requirement pursuant to section 402 of
12 the conference report to accompany S. Con. Res. 95
13 (108th Congress).

14 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
15 AIR FORCE

16 For an additional amount for “Research, Develop-
17 ment, Test and Evaluation, Air Force”, \$121,500,000, to
18 remain available until September 30, 2006: *Provided*,
19 That the amounts provided under this heading are des-
20 ignated as an emergency requirement pursuant to section
21 402 of the conference report to accompany S. Con. Res.
22 95 (108th Congress).

1 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,
2 DEFENSE-WIDE

3 For an additional amount for “Research, Develop-
4 ment, Test and Evaluation, Defense-Wide”,
5 \$159,600,000, to remain available until September 30,
6 2006: *Provided*, That the amounts provided under this
7 heading are designated as an emergency requirement pur-
8 suant to section 402 of the conference report to accom-
9 pany S. Con. Res. 95 (108th Congress).

10 REVOLVING AND MANAGEMENT FUNDS

11 DEFENSE WORKING CAPITAL FUNDS

12 For an additional amount for “Defense Working
13 Capital Funds”, \$1,411,300,000: *Provided*, That the
14 amounts provided under this heading are designated as
15 an emergency requirement pursuant to section 402 of the
16 conference report to accompany S. Con. Res. 95 (108th
17 Congress).

18 NATIONAL DEFENSE SEALIFT FUND

19 For an additional amount for “National Defense Sea-
20 lift Fund”, \$32,400,000, to remain available until ex-
21 pended: *Provided*, That the amounts provided under this
22 heading are designated as an emergency requirement pur-
23 suant to section 402 of the conference report to accom-
24 pany S. Con. Res. 95 (108th Congress).

1 OTHER DEPARTMENT OF DEFENSE PROGRAMS

2 DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES,

3 DEFENSE

4 (INCLUDING TRANSFER OF FUNDS)

5 For an additional amount for “Drug Interdiction and
6 Counter-Drug Activities, Defense”, \$257,000,000, to re-
7 main available until December 31, 2005: *Provided*, That
8 these funds may be used for such activities related to Af-
9 ghanistan and the Central Asia area: *Provided further*,
10 That the Secretary of Defense may transfer the funds pro-
11 vided herein only to appropriations for military personnel;
12 operation and maintenance; procurement; and research,
13 development, test and evaluation: *Provided further*, That
14 the funds transferred shall be merged with and be avail-
15 able for the same purposes and for the same time period
16 as the appropriation to which transferred: *Provided fur-*
17 *ther*, That the transfer authority provided in this para-
18 graph is in addition to any other transfer authority avail-
19 able to the Department of Defense: *Provided further*, That
20 upon a determination that all or part of the funds trans-
21 ferred from this appropriation are not necessary for the
22 purposes provided herein, such amounts may be trans-
23 ferred back to this appropriation: *Provided further*, That
24 not to exceed \$70,000,000 of the funds provided herein
25 may be used to reimburse fully this account for obligations

1 incurred for the purposes provided under this heading
 2 prior to enactment of this Act: *Provided further*, That the
 3 amounts provided under this heading are designated as
 4 an emergency requirement pursuant to section 402 of the
 5 conference report to accompany S. Con. Res. 95 (108th
 6 Congress).

7 OFFICE OF THE INSPECTOR GENERAL

8 For an additional amount for “Office of the Inspector
 9 General”, \$148,000: *Provided*, That the amounts provided
 10 under this heading are designated as an emergency re-
 11 quirement pursuant to section 402 of the conference re-
 12 port to accompany S. Con. Res. 95 (108th Congress).

13 RELATED AGENCIES

14 INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

15 For an additional amount for “Intelligence Commu-
 16 nity Management Account”, \$250,300,000, of which
 17 \$181,000,000 is to remain available until September 30,
 18 2006: *Provided*, That the amounts provided under this
 19 heading are designated as an emergency requirement pur-
 20 suant to section 402 of the conference report to accom-
 21 pany S. Con. Res. 95 (108th Congress).

22 GENERAL PROVISIONS—THIS CHAPTER

23 (TRANSFER OF FUNDS)

24 SEC. 1101. Upon his determination that such action
 25 is necessary in the national interest, the Secretary of De-

1 fense may transfer between appropriations up to
2 \$2,000,000,000 of the funds made available to the De-
3 partment of Defense in this chapter: *Provided*, That the
4 Secretary shall notify the Congress promptly of each
5 transfer made pursuant to this authority: *Provided fur-*
6 *ther*, That the transfer authority provided in this section
7 is in addition to any other transfer authority available to
8 the Department of Defense: *Provided further*, That the au-
9 thority in this section is subject to the same terms and
10 conditions as the authority provided in section 8005 of the
11 Department of Defense Appropriations Act, 2005, except
12 for the fourth proviso: *Provided further*, That the amounts
13 made available by the transfer of funds in or pursuant
14 to this section are designated as an emergency require-
15 ment pursuant to section 402 of the conference report to
16 accompany S. Con. Res. 95 (108th Congress).

17 SEC. 1102. Section 8005 of the Department of De-
18 fense Appropriations Act, 2005 (Public Law 108–287;
19 118 Stat. 969), is amended by striking “\$3,500,000,000”
20 and inserting “\$5,500,000,000”: *Provided*, That the
21 amounts made available by the transfer of funds in or pur-
22 suant to this section are designated as an emergency re-
23 quirement pursuant to section 402 of the conference re-
24 port to accompany S. Con. Res. 95 (108th Congress).

(TRANSFER OF FUNDS)

1
2 SEC. 1103. During fiscal year 2005, the Secretary
3 of Defense may transfer amounts in or credited to the De-
4 fense Cooperation Account, pursuant to section 2608 of
5 title 10, United States Code, to such appropriations or
6 funds of the Department of Defense as he shall determine
7 for use consistent with the purposes for which such funds
8 were contributed and accepted: *Provided*, That such
9 amounts shall be available for the same time period as
10 the appropriation to which transferred: *Provided further*,
11 That the Secretary shall report to the Congress all trans-
12 fers made pursuant to this authority: *Provided further*,
13 That the amounts provided under this heading are des-
14 ignated as an emergency requirement pursuant to section
15 402 of the conference report to accompany S. Con. Res.
16 95 (108th Congress).

17 SEC. 1104. (a) AUTHORITY TO PROVIDE SUP-
18 PORT.—Of the amount appropriated by this Act under the
19 heading, “Drug Interdiction and Counter-Drug Activities,
20 Defense”, not to exceed \$34,000,000 may be made avail-
21 able for support for counter-drug activities of the Govern-
22 ment of Afghanistan, and not to exceed \$4,000,000 may
23 be made available for support for counter-drug activities
24 of the Government of Pakistan: *Provided*, That such sup-
25 port shall be in addition to support provided for the

1 counter-drug activities of said Governments under any
2 other provision of the law.

3 (b) TYPES OF SUPPORT.—(1) Except as specified in
4 subsections (b)(2) and (b)(3) of this section, the support
5 that may be provided under the authority in this section
6 shall be limited to the types of support specified in section
7 1033(c)(1) of the National Defense Authorization Act for
8 Fiscal Year 1998 (Public Law 105–85, as amended by
9 Public Law 106–398 and Public Law 108–136) and condi-
10 tions on the provision of support as contained in section
11 1033 shall apply for fiscal year 2005.

12 (2) The Secretary of Defense may transfer vehicles,
13 aircraft, and detection, interception, monitoring and test-
14 ing equipment to said Governments for counter-drug ac-
15 tivities.

16 (3) For the Government of Afghanistan, the Sec-
17 retary of Defense may also provide individual and crew-
18 served weapons, and ammunition for counter-drug secu-
19 rity forces.

20 SEC. 1105. The paragraph under the heading “Oper-
21 ation and Maintenance, Defense-Wide” in title II of the
22 Department of Defense Appropriations Act, 2005 (Public
23 Law 108–287; 118 Stat. 954), is amended in the first pro-
24 viso by striking “\$32,000,000” and inserting
25 “\$40,000,000”.

1 SEC. 1106. For fiscal year 2005, the limitation under
2 paragraph (3) of section 2208(l) of title 10, United States
3 Code, on the total amount of advance billings rendered
4 or imposed for all working capital funds of the Depart-
5 ment of Defense in a fiscal year shall be applied by sub-
6 stituting “\$1,500,000,000” for “\$1,000,000,000”.

7 SEC. 1107. Section 1201(a) of the Ronald W. Reagan
8 National Defense Authorization Act for Fiscal Year 2005
9 (Public Law 108–375; 118 Stat. 2077), as amended by
10 section 102 of title I of division J of the Consolidated Ap-
11 propriations Act, 2005 (Public Law 108–447), is further
12 amended by striking “\$500,000,000” in the matter pre-
13 ceding paragraph (1) and inserting “\$854,000,000”.

14 SEC. 1108. Section 8090(b) of the Department of De-
15 fense Appropriations Act, 2005 (Public Law 108–287), is
16 amended by striking “\$185,000,000” and inserting
17 “\$210,000,000”.

18 SEC. 1109. (a) During calendar year 2005 and not-
19 withstanding section 5547 of title 5, United States Code,
20 the head of an Executive agency may waive the limitation,
21 up to \$200,000, established in that section for total com-
22 pensation, including limitations on the aggregate of basic
23 pay and premium pay payable in a calendar year, to an
24 employee who performs work while in an overseas location

1 that is in the area of responsibility of the Commander of
2 the U.S. Central Command, in support of, or related to—

3 (1) a military operation, including a contin-
4 gency operation; or

5 (2) an operation in response to a declared emer-
6 gency.

7 (b) To the extent that a waiver under subsection (a)
8 results in payment of additional premium pay of a type
9 that is normally creditable as basic pay for retirement or
10 any other purpose, such additional pay shall not be consid-
11 ered to be basic pay for any purpose, nor shall it be used
12 in computing a lump-sum payment for accumulated and
13 accrued annual leave under section 5551 of title 5, United
14 States Code.

15 (c) The Director of the Office of Personnel Manage-
16 ment may issue regulations to ensure appropriate consist-
17 ency among heads of executive agencies in the exercise of
18 authority granted by this section.

19 SEC. 1110. Section 1096(b) of the Intelligence Re-
20 form and Terrorism Prevention Act of 2004 (Public Law
21 108–458) is amended—

22 (1) in the matter preceding paragraph (1), by
23 striking “in the fiscal year after the effective date of
24 this Act” and inserting “during fiscal years 2005
25 and 2006”; and

1 (2) in paragraph (1), by striking “500 new per-
2 sonnel billets” and inserting “a total of 500 new
3 personnel positions”.

4 SEC. 1111. Section 1051a(e) of title 10, United
5 States Code, is amended by striking “September 30,
6 2005” and inserting “December 31, 2005”.

7 SEC. 1112. Notwithstanding subsection (c) of section
8 308e of title 37, United States Code, the maximum
9 amount of the bonus paid to a member of the Armed
10 Forces pursuant to a reserve affiliation agreement entered
11 into under such section during fiscal year 2005 shall not
12 exceed \$10,000, and the Secretary of Defense, and the
13 Secretary of Homeland Security with respect to the Coast
14 Guard, may prescribe regulations under subsection (f) of
15 such section to modify the method by which bonus pay-
16 ments are made under reserve affiliation agreements en-
17 tered into during such fiscal year.

18 SEC. 1113. (a) INCREASE IN SGLI MAXIMUM.—Sec-
19 tion 1967 of title 38, United States Code, is amended—

20 (1) in subsection (a)(3)(A)(i), by striking
21 “\$250,000” and inserting “\$400,000 or such lesser
22 amount as the member may elect in increments of
23 \$50,000”;

24 (2) in subsection (a)(3)(B), by striking “member
25 or spouse” in the last sentence and inserting “mem-

1 ber, be evenly divisible by \$50,000 and, in the case
2 of a member's spouse"; and

3 (3) in subsection (d), by striking "of \$250,000"
4 and inserting "in effect under subsection
5 (a)(3)(A)(i)".

6 (b) SPOUSE CONSENT AND BENEFICIARY NOTIFICA-
7 TION.—Section 1967(a)(3)(B) of such title is amended—

8 (1) by inserting "(i)" after "(B)"; and

9 (2) by adding at the end the following new
10 clauses:

11 “(ii) A member who is married may
12 not, without the written concurrence of the
13 member's spouse—

14 “(I) elect not to be insured under
15 this subchapter or to be insured under
16 this subchapter in an amount less
17 than the maximum amount provided
18 for under subparagraph (A)(i); or

19 “(II) designate any other person
20 as a beneficiary under this program.

21 “(iii) Whenever a member who is not
22 married elects not to be insured under this
23 subchapter or to be insured under this sub-
24 chapter in an amount less than the max-
25 imum amount provided for under subpara-

1 graph (A)(i), the Secretary concerned shall
2 provide a notice of such election to any
3 person designated by the member as a ben-
4 eficiary or designated as the member's
5 next-of-kin for the purpose of emergency
6 notification, as determined under regula-
7 tions prescribed by the Secretary of De-
8 fense.”.

9 (c) LIMITATION ON SPOUSE COVERAGE TO AMOUNT
10 OF MEMBER COVERAGE.—Section 1967(a)(3)(C) of such
11 title is amended by inserting before the period at the end
12 the following: “as applicable to such member under sub-
13 paragraph (A)(i)”.

14 (d) CONFORMING AMENDMENTS TO VGLI PROVI-
15 SIONS.—Section 1977 of such title is amended by striking
16 “\$250,000” each place it appears and inserting
17 “\$400,000”.

18 (e) MILITARY DEATH GRATUITY.—Section 1478 of
19 title 10, United States Code, is amended—

20 (1) in subsection (a), by striking “\$12,000 (as
21 adjusted under subsection (c))” and inserting
22 “\$100,000”; and

23 (2) by striking subsection (c).

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to deaths occurring
3 on or after the date of the enactment of this Act.

4 SEC. 1114. (a) SPECIAL DEATH GRATUITY FOR CER-
5 TAIN PRIOR DEATHS IN SERVICE.—In the case of the
6 death of a member of the uniformed services that is a
7 qualifying death (as specified in subsection (b)), the Sec-
8 retary concerned shall pay a death gratuity of not more
9 than \$238,000. Of that amount—

10 (1) \$150,000 shall be paid in the manner speci-
11 fied in subsection (c); and

12 (2) \$88,000 shall be paid in the manner speci-
13 fied in subsection (d).

14 (b) QUALIFYING DEATHS.—The death of a member
15 of the uniformed services is a qualifying death for purpose
16 of this section if—

17 (1) the member died during the period begin-
18 ning on October 7, 2001, and ending on the day be-
19 fore the date of the enactment of this Act;

20 (2) for the purpose of section 1114(a)(2), the
21 death was a direct result of an injury or illness (or
22 combination of one or more injuries or illness) in-
23 curred in Operation Enduring Freedom or Operation
24 Iraqi Freedom, as determined under regulations pre-
25 scribed by the Secretary of Defense; and

1 (3) for the purpose of section 1114(a)(1), the
2 death was a direct result of an injury or illness (or
3 combination of one or more injuries or illness) in-
4 curred by any active duty military member in the
5 performance of duty.

6 (c) SGLI BENEFICIARIES.—A payment pursuant to
7 subsection (a)(1) by reason of a covered death shall be
8 paid—

9 (1) to a beneficiary in proportion to the share
10 of benefits applicable to such beneficiary in the pay-
11 ment of life insurance proceeds paid on the basis of
12 that death under the Servicemembers Group Life In-
13 surance program under subchapter III of chapter 19
14 of title 38, United States Code; or

15 (2) in the case of a member who elected not to
16 be insured under the provisions of that subchapter,
17 in equal shares to the person or persons who would
18 have received proceeds under those provisions of law
19 for a member who is insured under that subchapter
20 but does not designate named beneficiaries.

21 (d) MILITARY DEATH GRATUITY BENEFICIARIES.—
22 A payment pursuant to subsection (a)(2) by reason of a
23 covered death shall be paid equal shares to the bene-
24 ficiaries who were paid the death gratuity that was paid

1 with respect to that death under subchapter II of chapter
2 75 of title 10, United States Code.

3 (e) STATUS OF PAYMENTS.—A death gratuity pay-
4 able under this section by reason of a qualifying death
5 is in addition to any other death gratuity or other benefit
6 payable by the United States by reason of that death.

7 (f) DEFINITION.—For the purposes of this section,
8 the term “Secretary concerned” has the meaning given
9 that term in section 101 of title 37, United States Code.”.

10 SEC. 1115. Funds appropriated in this chapter, or
11 made available by transfer of funds in or pursuant to this
12 chapter, for intelligence activities are deemed to be specifi-
13 cally authorized by the Congress for purposes of section
14 504 of the National Security Act of 1947 (50 U.S.C. 414).

15 SEC. 1116. None of the funds provided in this chap-
16 ter may be used to finance programs or activities denied
17 by Congress in fiscal year 2004 and 2005 appropriations
18 to the Department of Defense or to initiate a procurement
19 or research, development, test and evaluation new start
20 program without prior written notification to the congres-
21 sional defense committees.

CHAPTER 2

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$930,100,000, to remain available until September 30, 2006: *Provided*, That \$669,100,000 of such additional amount may not be obligated until after that date on which the Secretary of Defense submits to the Committees on Appropriations of the House of Representatives and Senate the comprehensive master plans for overseas military infrastructure required by House Report 108–342: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$92,720,000, to remain available until September 30, 2006: *Provided*, That \$32,380,000 of such additional amount may not be obligated until after that date on which the Secretary of De-

1 fense submits to the Committees on Appropriations of the
 2 House of Representatives and Senate the comprehensive
 3 master plans for overseas military infrastructure required
 4 by House Report 108–342: *Provided further*, That not-
 5 withstanding any other provision of law, such funds may
 6 be obligated or expended to carry out planning and design
 7 and military construction projects not otherwise author-
 8 ized by law: *Provided further*, That the amounts provided
 9 under this heading are designated as an emergency re-
 10 quirement pursuant to section 402 of the conference re-
 11 port to accompany S. Con. Res. 95 (108th Congress).

12 MILITARY CONSTRUCTION, AIR FORCE

13 For an additional amount for “Military Construction,
 14 Air Force”, \$301,386,000, to remain available until Sep-
 15 tember 30, 2006: *Provided*, That \$301,386,000 of such
 16 additional amount may not be obligated until after that
 17 date on which the Secretary of Defense submits to the
 18 Committees on Appropriations of the House of Represent-
 19 atives and Senate the comprehensive master plans for
 20 overseas military infrastructure required by House Report
 21 108–342: *Provided further*, That notwithstanding any
 22 other provision of law, such funds may be obligated or ex-
 23 pended to carry out planning and design and military con-
 24 struction projects not otherwise authorized by law: *Pro-*
 25 *vided further*, That the amounts provided under this head-

1 ing are designated as an emergency requirement pursuant
2 to section 402 of the conference report to accompany S.
3 Con. Res. 95 (108th Congress).

4 MILITARY PERSONNEL, ARMY

5 For an additional amount for “Military Personnel,
6 Army”, \$1,542,100,000: *Provided*, That the amounts pro-
7 vided under this heading are designated as an emergency
8 requirement pursuant to section 402 of the conference re-
9 port to accompany S. Con. Res. 95 (108th Congress).

10 OPERATION AND MAINTENANCE, ARMY

11 For an additional amount for “Operation and Main-
12 tenance, Army”, \$66,300,000: *Provided*, That the
13 amounts provided under this heading are designated as
14 an emergency requirement pursuant to section 402 of the
15 conference report to accompany S. Con. Res. 95 (108th
16 Congress).

17 DEFENSE HEALTH PROGRAM

18 For an additional amount for “Defense Health Pro-
19 gram”, \$175,550,000 for operation and maintenance: *Pro-*
20 *vided*, That the amounts provided under this heading are
21 designated as an emergency requirement pursuant to sec-
22 tion 402 of the conference report to accompany S. Con.
23 Res. 95 (108th Congress).

1 TITLE II—INTERNATIONAL PROGRAMS AND AS-
2 SISTANCE FOR RECONSTRUCTION AND THE
3 WAR ON TERROR

4 CHAPTER 1
5 BILATERAL ECONOMIC ASSISTANCE
6 FUNDS APPROPRIATED TO THE PRESIDENT
7 UNITED STATES AGENCY FOR INTERNATIONAL
8 DEVELOPMENT

9 INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

10 For an additional amount for “International Disaster
11 and Famine Assistance”, \$44,000,000 (increased by
12 \$50,000,000), to remain available until expended, for
13 emergency expenses related to the humanitarian crisis in
14 the Darfur region of Sudan: *Provided*, That the amounts
15 provided under this heading are designated as an emer-
16 gency requirement pursuant to section 402 of the con-
17 ference report to accompany S. Con. Res. 95 (108th Con-
18 gress).

19 OPERATING EXPENSES OF THE UNITED STATES AGENCY
20 FOR INTERNATIONAL DEVELOPMENT

21 For an additional amount for “Operating Expenses
22 of the United States Agency for International Develop-
23 ment”, \$24,400,000, to remain available until September
24 30, 2006.

1 OPERATING EXPENSES OF THE UNITED STATES AGENCY
2 FOR INTERNATIONAL DEVELOPMENT
3 OFFICE OF INSPECTOR GENERAL

4 For an additional amount for “Operating Expenses
5 of the United States Agency for International Develop-
6 ment Office of Inspector General”, \$2,500,000, to remain
7 available until September 30, 2006.

8 OTHER BILATERAL ECONOMIC ASSISTANCE
9 ECONOMIC SUPPORT FUND

10 For an additional amount for “Economic Support
11 Fund”, \$684,700,000 (reduced by \$3,000,000), to remain
12 available until September 30, 2006, of which up to
13 \$200,000,000 may be provided for programs, activities,
14 and efforts to support Palestinians.

15 For an additional amount for “Economic Support
16 Fund”, \$376,500,000, to remain available until Sep-
17 tember 30, 2006: *Provided*, That these funds are hereby
18 designated by Congress to be emergency requirements
19 pursuant to section 402 of the conference report to accom-
20 pany S. Con. Res. 95 (108th Congress).

21 ASSISTANCE FOR THE INDEPENDENT STATES OF THE
22 FORMER SOVIET UNION

23 For an additional amount for “Assistance for the
24 Independent States of the Former Soviet Union” for as-

1 sistance for Ukraine, \$33,700,000, to remain available
2 until September 30, 2006.

3 DEPARTMENT OF STATE

4 INTERNATIONAL NARCOTICS CONTROL AND LAW

5 ENFORCEMENT

6 (INCLUDING TRANSFER OF FUNDS)

7 For an additional amount for “International Nar-
8 cotics Control and Law Enforcement”, \$594,000,000, to
9 remain available until September 30, 2007, of which not
10 more than \$400,000,000 may be made available to provide
11 assistance to the Afghan police: *Provided*, That the
12 amounts provided under this heading are designated as
13 an emergency requirement pursuant to section 402 of the
14 conference report to accompany S. Con. Res. 95 (108th
15 Congress).

16 MIGRATION AND REFUGEE ASSISTANCE

17 For an additional amount for “Migration and Ref-
18 ugee Assistance”, \$53,400,000 (increased by
19 \$50,000,000), to remain available until September 30,
20 2006: *Provided*, That the amounts provided under this
21 heading are designated as an emergency requirement pur-
22 suant to section 402 of the conference report to accom-
23 pany S. Con. Res. 95 (108th Congress).

1 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND
2 RELATED PROGRAMS

3 For an additional amount for “Nonproliferation,
4 Anti-Terrorism, Demining and Related Programs”,
5 \$17,100,000, to remain available until September 30,
6 2006: *Provided*, That the amounts provided under this
7 heading are designated as an emergency requirement pur-
8 suant to section 402 of the conference report to accom-
9 pany S. Con. Res. 95 (108th Congress).

10 MILITARY ASSISTANCE

11 FUNDS APPROPRIATED TO THE PRESIDENT

12 FOREIGN MILITARY FINANCING PROGRAM

13 For an additional amount for the “Foreign Military
14 Financing Program”, \$250,000,000.

15 PEACEKEEPING OPERATIONS

16 For an additional amount for “Peacekeeping Oper-
17 ations”, \$10,000,000, to remain available until September
18 30, 2006: *Provided*, That the amounts provided under this
19 heading are designated as an emergency requirement pur-
20 suant to section 402 of the conference report to accom-
21 pany S. Con. Res. 95 (108th Congress).

22 GENERAL PROVISIONS—THIS CHAPTER

23 SEC. 2101. Section 307(a) of the Foreign Assistance
24 Act of 1961 is amended by striking “Iraq,”.

(RESCISSION)

1
2 SEC. 2102. The unexpended balance appropriated by
3 Public Law 108–11 under the heading “Economic Sup-
4 port Fund” and made available for Turkey is rescinded.

5 SEC. 2103. Section 559 of division D of Public Law
6 108–447 is amended by adding at the end the following:

7 “(e) Subsequent to the certification specified in sub-
8 section (a), the Comptroller General of the United States
9 shall conduct an audit and an investigation of the treat-
10 ment, handling, and uses of all funds for the bilateral
11 West Bank and Gaza Program in fiscal year 2005 under
12 the heading ‘Economic Support Fund’. The audit shall
13 address—

14 “(1) the extent to which such Program complies
15 with the requirements of subsections (b) and (c),
16 and

17 “(2) an examination of all programs, projects,
18 and activities carried out under such Program, in-
19 cluding both obligations and expenditures.”.

20 SEC. 2104. The Secretary of State shall submit to
21 the Committees on Appropriations not later than 30 days
22 after enactment, and prior to the initial obligation of funds
23 appropriated under this chapter, a report on the proposed
24 uses of all funds on a project-by-project basis, for which
25 the obligation of funds is anticipated: *Provided*, That up

1 to 10 percent of funds appropriated under this chapter
2 may be obligated before the submission of the report sub-
3 ject to the normal notification procedures of the Commit-
4 tees on Appropriations: *Provided further*, That the report
5 shall be updated and submitted to the Committees on Ap-
6 propriations every six months and shall include informa-
7 tion detailing how the estimates and assumptions con-
8 tained in previous reports have changed: *Provided further*,
9 That any new projects and increases in funding of ongoing
10 projects shall be subject to the prior approval of the Com-
11 mittees on Appropriations: *Provided further*, That the Sec-
12 retary of State shall submit to the Committees on Appro-
13 priations, not later than 210 days following enactment of
14 this Act and annually thereafter, a report detailing on a
15 project-by-project basis the expenditure of funds appro-
16 priated under this chapter until all funds have been fully
17 expended.

18 SEC. 2105. The Comptroller General of the United
19 States shall conduct an audit of the use of all funds for
20 the bilateral Afghanistan counternarcotics and alternative
21 livelihood programs in fiscal year 2005 under the heading
22 “Economic Support Fund” and “International Narcotics
23 Control and Law Enforcement”: *Provided*, That the audit
24 shall include an examination of all programs, projects and

1 activities carried out under such programs, including both
2 obligations and expenditures.

3 SEC. 2106. No later than 60 days after the date of
4 enactment of this Act, the President shall submit a report
5 to the Congress detailing—

6 (1) information regarding the Palestinian secu-
7 rity services, including their numbers, accountability,
8 and chains of command, and steps taken to purge
9 from their ranks individuals with ties to terrorist en-
10 tities;

11 (2) specific steps taken by the Palestinian Au-
12 thority to dismantle the terrorist infrastructure, con-
13 fiscate unauthorized weapons, arrest and bring ter-
14 rorists to justice, destroy unauthorized arms fac-
15 tories, thwart and preempt terrorist attacks, and co-
16 operate with Israel's security services;

17 (3) specific actions taken by the Palestinian Au-
18 thority to stop incitement in Palestinian Authority-
19 controlled electronic and print media and in schools,
20 mosques, and other institutions it controls, and to
21 promote peace and coexistence with Israel;

22 (4) specific steps the Palestinian Authority has
23 taken to ensure democracy, the rule of law, and an
24 independent judiciary, and transparent and account-
25 able governance;

1 (5) the Palestinian Authority’s cooperation with
2 United States officials in their investigations into
3 the late Palestinian leader Yasser Arafat’s finances;
4 and

5 (6) the amount of assistance pledged and actu-
6 ally provided to the Palestinian Authority by other
7 donors:

8 *Provided*, That not later than 180 days after enactment
9 of this Act, the President shall submit to the Congress
10 an update of this report: *Provided further*, That up to
11 \$5,000,000 of the funds made available for assistance to
12 the West Bank and Gaza by this title under “Economic
13 Support Fund” shall be used for an outside, independent
14 evaluation by an internationally recognized accounting
15 firm of the transparency and accountability of Palestinian
16 Authority accounting procedures and an audit of expendi-
17 tures by the Palestinian Authority: *Provided further*, That
18 the waiver authority of section 550(b) of the Foreign Op-
19 erations, Export Financing, and Related Programs Appro-
20 priations Act, 2005 (Public Law 108–447) may not be ex-
21 ercised with respect to funds appropriated for assistance
22 to the Palestinians under this chapter: *Provided further*,
23 That the waiver detailed in Presidential Determination
24 2005–10 issued on December 8, 2004, shall not be ex-
25 tended to funds appropriated under this chapter.

1 CHAPTER 2
2 DEPARTMENT OF STATE AND RELATED
3 AGENCY
4 DEPARTMENT OF STATE
5 ADMINISTRATION OF FOREIGN AFFAIRS
6 DIPLOMATIC AND CONSULAR PROGRAMS
7 For an additional amount for “Diplomatic and Con-
8 sular Programs”, \$748,500,000, to remain available until
9 September 30, 2006: *Provided*, That the amounts provided
10 under this heading are designated as an emergency re-
11 quirement pursuant to section 402 of the conference re-
12 port to accompany S. Con. Res. 95 (108th Congress).
13 EMBASSY SECURITY, CONSTRUCTION, AND
14 MAINTENANCE
15 For an additional amount for “Embassy Security,
16 Construction, and Maintenance”, \$592,000,000, to re-
17 main available until expended: *Provided*, That the
18 amounts provided under this heading are designated as
19 an emergency requirement pursuant to section 402 of the
20 conference report to accompany S. Con. Res. 95 (108th
21 Congress).

1 INTERNATIONAL ORGANIZATIONS
2 CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING
3 ACTIVITIES
4 (INCLUDING TRANSFER OF FUNDS)

5 For an additional amount for “Contributions for
6 International Peacekeeping Activities”, \$580,000,000, to
7 remain available until September 30, 2006: *Provided*,
8 That the amounts provided under this heading are des-
9 ignated as an emergency requirement pursuant to section
10 402 of the conference report to accompany S. Con. Res.
11 95 (108th Congress): *Provided further*, That up to
12 \$55,000,000 provided under this heading may be trans-
13 ferred to “Peacekeeping Operations”, to be available for
14 costs of establishing and operating a Sudan war crimes
15 tribunal.

16 RELATED AGENCY
17 BROADCASTING BOARD OF GOVERNORS
18 INTERNATIONAL BROADCASTING OPERATIONS

19 For an additional amount for “International Broad-
20 casting Operations” for activities related to broadcasting
21 to the broader Middle East, \$4,800,000, to remain avail-
22 able until September 30, 2006: *Provided*, That the
23 amounts provided under this heading are designated as
24 an emergency requirement pursuant to section 402 of the

1 conference report to accompany S. Con. Res. 95 (108th
2 Congress).

3 CHAPTER 3

4 DEPARTMENT OF AGRICULTURE

5 FOREIGN AGRICULTURAL SERVICE

6 PUBLIC LAW 480 TITLE II GRANTS

7 For an additional amount for “Public Law 480 Title
8 II Grants”, \$150,000,000, to remain available until ex-
9 pended: *Provided*, That the amounts provided under this
10 heading are designated as an emergency requirement pur-
11 suant to section 402 of the conference report to accom-
12 pany S. Con. Res. 95 (108th Congress).

13 TITLE III—DOMESTIC APPROPRIATIONS FOR

14 THE WAR ON TERROR

15 CHAPTER 1

16 DEPARTMENT OF ENERGY

17 NATIONAL NUCLEAR SECURITY

18 ADMINISTRATION

19 DEFENSE NUCLEAR NONPROLIFERATION

20 For an additional amount for “Defense Nuclear Non-
21 proliferation”, \$110,000,000, to remain available until ex-
22 pended: *Provided*, That the amounts provided under this
23 heading are designated as an emergency requirement pur-
24 suant to section 402 of the conference report to accom-
25 pany S. Con. Res. 95 (108th Congress).

1 CHAPTER 2
2 DEPARTMENT OF HOMELAND SECURITY
3 UNITED STATES COAST GUARD
4 OPERATING EXPENSES

5 For an additional amount for “Operating Expenses”,
6 \$111,950,000: *Provided*, That the amounts provided
7 under this heading are designated as an emergency re-
8 quirement pursuant to section 402 of the conference re-
9 port to accompany S. Con. Res. 95 (108th Congress).

10 ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

11 For an additional amount for “Acquisition, Construc-
12 tion, and Improvements”, \$49,200,000, to remain avail-
13 able until September 30, 2007: *Provided*, That the
14 amounts provided under this heading are designated as
15 an emergency requirement pursuant to section 402 of the
16 conference report to accompany S. Con. Res. 95 (108th
17 Congress).

18 CHAPTER 3
19 DEPARTMENT OF JUSTICE
20 FEDERAL BUREAU OF INVESTIGATION
21 SALARIES AND EXPENSES

22 For an additional amount for “Salaries and Ex-
23 penses”, \$78,970,000: *Provided*, That the amounts pro-
24 vided under this heading are designated as an emergency

1 requirement pursuant to section 402 of the conference re-
 2 port to accompany S. Con. Res. 95 (108th Congress).

3 DRUG ENFORCEMENT ADMINISTRATION

4 SALARIES AND EXPENSES

5 For an additional amount for “Salaries and Ex-
 6 penses,” \$7,648,000: *Provided*, That the amounts pro-
 7 vided under this heading are designated as an emergency
 8 requirement pursuant to section 402 of the conference re-
 9 port to accompany S. Con. Res. 95 (108th Congress).

10 TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

11 CHAPTER 1

12 FUNDS APPROPRIATED TO THE PRESIDENT

13 OTHER BILATERAL ASSISTANCE

14 TSUNAMI RECOVERY AND RECONSTRUCTION FUND

15 (INCLUDING TRANSFERS OF FUNDS)

16 For necessary expenses to carry out the Foreign As-
 17 sistance Act of 1961, for emergency relief, rehabilitation,
 18 and reconstruction aid to countries affected by the tsu-
 19 nami and earthquakes of December 2004, and for other
 20 purposes, \$656,000,000 (increased by \$3,000,000), to re-
 21 main available until September 30, 2006: *Provided*, That
 22 these funds may be transferred by the Secretary of State
 23 to any Federal agency or account for any activity author-
 24 ized under part I (including chapter 4 of part II) of the
 25 Foreign Assistance Act, or under the Agricultural Trade

1 Development and Assistance Act of 1954, to accomplish
2 the purposes provided herein: *Provided further*, That upon
3 a determination that all or part of the funds so transferred
4 from this appropriation are not necessary for the purposes
5 provided herein, such amounts may be transferred back
6 to this appropriation: *Provided further*, That funds appro-
7 priated under this heading may be used to reimburse fully
8 accounts administered by the United States Agency for
9 International Development for obligations incurred for the
10 purposes provided under this heading prior to enactment
11 of this Act, including Public Law 480 Title II grants: *Pro-*
12 *vided further*, That the amounts provided under this head-
13 ing are designated as an emergency requirement pursuant
14 to section 402 of the conference report to accompany S.
15 Con. Res. 95 (108th Congress): *Provided further*, That of
16 the amounts provided herein: up to \$10,000,000 may be
17 transferred to and consolidated with the Development
18 Credit Authority for the cost of direct loans and loan guar-
19 antees as authorized by sections 256 and 635 of the For-
20 eign Assistance Act of 1961 in furtherance of the purposes
21 of this heading; up to \$15,000,000 may be transferred to
22 and consolidated with “Operating Expenses of the United
23 States Agency for International Development”, of which
24 up to \$2,000,000 may be used for administrative expenses
25 to carry out credit programs administered by the United

1 States Agency for International Development in further-
2 ance of the purposes of this heading; up to \$500,000 may
3 be transferred to and consolidated with “Operating Ex-
4 penses of the United States Agency for International De-
5 velopment, Office of Inspector General”; and up to
6 \$5,000,000 may be transferred to and consolidated with
7 “Administration of Foreign Affairs Emergencies in the
8 Diplomatic and Consular Service” for the purpose of pro-
9 viding support services for U.S. citizen victims and related
10 operations.

11 GENERAL PROVISION

12 SEC. 4101. Amounts made available pursuant to sec-
13 tion 492(b) of the Foreign Assistance Act of 1961 to ad-
14 dress relief and rehabilitation needs for countries affected
15 by the tsunami and earthquake of December 2004, prior
16 to the enactment of this Act, shall be in addition to the
17 amount that may be obligated in fiscal year 2005 under
18 that section.

19 SEC. 4102. The Secretary of State shall submit to
20 the Committees on Appropriations not later than 30 days
21 after enactment, and prior to the initial obligation of funds
22 appropriated under this chapter, a report on the proposed
23 uses of all funds on a project-by-project basis, for which
24 the obligation of funds is anticipated: *Provided*, That up
25 to 10 percent of funds appropriated under this chapter

1 may be obligated before the submission of the report sub-
 2 ject to the normal notification procedures of the Commit-
 3 tees on Appropriations: *Provided further*, That the report
 4 shall be updated and submitted to the Committees on Ap-
 5 propriations every six months and shall include informa-
 6 tion detailing how the estimates and assumptions con-
 7 tained in previous reports have changed: *Provided further*,
 8 That any proposed new projects and increases in funding
 9 of ongoing projects shall be reported to the Committees
 10 on Appropriations in accordance with regular notification
 11 procedures: *Provided further*, That the Secretary of State
 12 shall submit to the Committees on Appropriations, not
 13 later than 210 days following enactment of this Act, and
 14 every six months thereafter, a report detailing on a
 15 project-by project basis, the expenditure of funds appro-
 16 priated under this chapter until all funds have been fully
 17 expended.

18 CHAPTER 2

19 DEPARTMENT OF DEFENSE—MILITARY

20 OPERATION AND MAINTENANCE

21 OPERATION AND MAINTENANCE, NAVY

22 For an additional amount for “Operation and Main-
 23 tenance, Navy”, \$124,100,000: *Provided*, That the
 24 amounts provided under this heading are designated as
 25 an emergency requirement pursuant to section 402 of the

1 conference report to accompany S. Con. Res. 95 (108th
2 Congress).

3 OPERATION AND MAINTENANCE, MARINE CORPS

4 For an additional amount for “Operation and Main-
5 tenance, Marine Corps”, \$2,800,000: *Provided*, That the
6 amounts provided under this heading are designated as
7 an emergency requirement pursuant to section 402 of the
8 conference report to accompany S. Con. Res. 95 (108th
9 Congress).

10 OPERATION AND MAINTENANCE, AIR FORCE

11 For an additional amount for “Operation and Main-
12 tenance, Air Force”, \$30,000,000: *Provided*, That the
13 amounts provided under this heading are designated as
14 an emergency requirement pursuant to section 402 of the
15 conference report to accompany S. Con. Res. 95 (108th
16 Congress).

17 OPERATION AND MAINTENANCE, DEFENSE-WIDE

18 For an additional amount for “Operation and Main-
19 tenance, Defense-Wide”, \$29,150,000: *Provided*, That the
20 amounts provided under this heading are designated as
21 an emergency requirement pursuant to section 402 of the
22 conference report to accompany S. Con. Res. 95 (108th
23 Congress).

1 OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

2 For an additional amount for “Overseas Humanitarian, Disaster, and Civic Aid”, \$36,000,000, to remain
 3 available until September 30, 2006: *Provided*, That the
 4 amounts provided under this heading are designated as
 5 an emergency requirement pursuant to section 402 of the
 6 conference report to accompany S. Con. Res. 95 (108th
 7 Congress).

9 CHAPTER 3

10 DEPARTMENT OF DEFENSE

11 DEFENSE HEALTH PROGRAM

12 For an additional amount for “Defense Health Program”, \$3,600,000 for operation and maintenance: *Provided*, That the amounts provided under this heading are
 13 designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con.
 14 Res. 95 (108th Congress).

18 CHAPTER 4

19 DEPARTMENT OF HOMELAND SECURITY

20 UNITED STATES COAST GUARD

21 OPERATING EXPENSES

22 For an additional amount for “Operating Expenses”,
 23 \$350,000: *Provided*, That the amounts provided under
 24 this heading are designated as an emergency requirement

1 pursuant to section 402 of the conference report to accom-
 2 pany S. Con. Res. 95 (108th Congress).

3 CHAPTER 5

4 DEPARTMENT OF THE INTERIOR

5 UNITED STATES GEOLOGICAL SURVEY

6 SURVEYS, INVESTIGATIONS, AND RESEARCH

7 For an additional amount for “Surveys, Investiga-
 8 tions, and Research”, \$8,100,000, to remain available
 9 until September 30, 2006: *Provided*, That the amounts
 10 provided under this heading are designated as an emer-
 11 gency requirement pursuant to section 402 of the con-
 12 ference report to accompany S. Con. Res. 95 (108th Con-
 13 gress).

14 CHAPTER 6

15 DEPARTMENT OF COMMERCE

16 NATIONAL OCEANIC AND ATMOSPHERIC

17 ADMINISTRATION

18 OPERATIONS, RESEARCH, AND FACILITIES

19 For an additional amount for “Operations, Research,
 20 and Facilities”, \$4,830,000, to remain available until Sep-
 21 tember 30, 2006, for United States tsunami warning ca-
 22 pabilities and operations: *Provided*, That the amounts pro-
 23 vided under this heading are designated as an emergency
 24 requirement pursuant to section 402 of the conference re-
 25 port to accompany S. Con. Res. 95 (108th Congress).

1 PROCUREMENT, ACQUISITION AND CONSTRUCTION

2 For an additional amount for “Procurement, Acquisi-
3 tion and Construction”, \$9,670,000, to remain available
4 until September 30, 2007, for United States tsunami
5 warning capabilities: *Provided*, That the amounts provided
6 under this heading are designated as an emergency re-
7 quirement pursuant to section 402 of the conference re-
8 port to accompany S. Con. Res. 95 (108th Congress).

9 TITLE V—GENERAL PROVISIONS AND
10 TECHNICAL CORRECTIONS

11 SEC. 5001. No part of any appropriation contained
12 in this Act shall remain available for obligation beyond
13 the current fiscal year unless expressly so provided herein.

14 (INCLUDING TRANSFERS OF FUNDS)

15 SEC. 5002. Notwithstanding any other provision of
16 law, upon enactment of this Act, the Secretary of Defense
17 shall make the following transfers of funds previously
18 made available in the Department of Defense Appropria-
19 tions Act, 2005 (Public Law 108–287): *Provided*, That the
20 amounts transferred shall be made available for the same
21 purpose and the same time period as the appropriation
22 to which transferred: *Provided further*, That the authority
23 provided in this section is in addition to any other transfer
24 authority available to the Department of Defense: *Pro-*
25 *vided further*, That the amounts shall be transferred be-

1 tween the following appropriations, in the amounts speci-
 2 fied:

3 To:

4 Under the heading, “Research, Develop-
 5 ment, Test and Evaluation, Air Force,
 6 2005/2006”, \$500,000;

7 From:

8 Under the heading, “Other Procurement,
 9 Air Force”, \$500,000.

10 To:

11 Under the heading, “Other Procurement,
 12 Air Force, 2005/2007”, \$8,200,000;

13 From:

14 Under the heading, “Other Procurement,
 15 Navy, 2005/2007”, \$8,200,000.

16 SEC. 5003. Funds appropriated by this Act may be
 17 obligated and expended notwithstanding section 15 of the
 18 State Department Basic Authorities Act of 1956, section
 19 313 of the Foreign Relations Authorization Act, Fiscal
 20 Years 1994 and 1995 (Public Law 103–236) and section
 21 10 of Public Law 91–672 (22 U.S.C. 2412), and section
 22 504(a)(1) of the National Security Act of 1947 (50 U.S.C.
 23 414(a)(1)).

24 SEC. 5004. The last proviso under the heading “Op-
 25 eration and Maintenance” in title I of division C of Public

1 Law 108–447 is amended by striking “Public Law 108–
2 357” and inserting “Public Law 108–137”.

3 SEC. 5005. Section 101 of title I of division C of Pub-
4 lic Law 108–447 is amended by striking “per project” and
5 all that follows through the period at the end and inserting
6 “for all applicable programs and projects not to exceed
7 \$80,000,000 in each fiscal year.”.

8 SEC. 5006. The matter under the heading “Water
9 and Related Resources” in title II of division C of Public
10 Law 108–447 is amended by inserting before the period
11 at the end the following: “: *Provided further*, That
12 \$4,023,000 of the funds appropriated under this heading
13 shall be deposited in the San Gabriel Basin Restoration
14 Fund established by section 110 of title I of division B
15 of the Miscellaneous Appropriations Act, 2001 (as enacted
16 into law by Public Law 106–554)”.

17 SEC. 5007. In division C, title III of the Consolidated
18 Appropriations Act, 2005 (Public Law 108–447), the item
19 relating to “Department of Energy—Energy Programs—
20 Nuclear Waste Disposal” is amended by—

21 (1) inserting “to be derived from the Nuclear
22 Waste Fund and” after “\$346,000,000,”; and

23 (2) striking “to conduct scientific oversight re-
24 sponsibilities and participate in licensing activities
25 pursuant to the Act” and inserting “to participate

1 in licensing activities and other appropriate activities
2 pursuant to the Act”.

3 SEC. 5008. Section 144(b)(2) of title I of division E
4 of Public Law 108–447 is amended by striking “Sep-
5 tember 24, 2004” and inserting “November 12, 2004”.

6 SEC. 5009. In the statement of the managers of the
7 committee of conference accompanying H.R. 4818 (Public
8 Law 108–447; House Report 108–792), in the matter in
9 title III of division F, relating to the Fund for the Im-
10 provement of Education under the heading “Innovation
11 and Improvement”—

12 (1) the provision specifying \$500,000 for the
13 Mississippi Museum of Art, Jackson, MS for Hardy
14 Middle School After School Program shall be
15 deemed to read “Mississippi Museum of Art, Jack-
16 son, MS for a Mississippi Museum of Art After-
17 School Collaborative”;

18 (2) the provision specifying \$2,000,000 for the
19 Milken Family Foundation, Santa Monica, CA, for
20 the Teacher Advancement Program shall be deemed
21 to read “Teacher Advancement Program Founda-
22 tion, Santa Monica, CA for the Teacher Advance-
23 ment Program”;

24 (3) the provision specifying \$1,000,000 for
25 Batelle for Kids, Columbus, OH for a multi-state ef-

1 fort to evaluate and learn the most effective ways for
2 accelerating student academic growth shall be
3 deemed to read “Battelle for Kids, Columbus, OH
4 for a multi-state effort to implement, evaluate and
5 learn the most effective ways for accelerating stu-
6 dent academic growth”;

7 (4) the provision specifying \$750,000 for the
8 Institute of Heart Math, Boulder Creek, CO for a
9 teacher retention and student dropout prevention
10 program shall be deemed to read “Institute of Heart
11 Math, Boulder Creek, CA for a teacher retention
12 and student dropout prevention program”;

13 (5) the provision specifying \$200,000 for Fair-
14 fax County Public Schools, Fairfax, VA for Chinese
15 language programs in Franklin Sherman Elemen-
16 tary School and Chesterbrook Elementary School in
17 McLean, Virginia shall be deemed to read “Fairfax
18 County Public Schools, Fairfax, VA for Chinese lan-
19 guage programs in Shrevewood Elementary School
20 and Wolftrap Elementary School”;

21 (6) the provision specifying \$1,250,000 for the
22 University of Alaska/Fairbanks in Fairbanks, AK,
23 working with the State of Alaska and Catholic Com-
24 munity Services, for the Alaska System for Early
25 Education Development (SEED) shall be deemed to

1 read “University of Alaska/Southeast in Juneau,
2 AK, working with the State of Alaska and Catholic
3 Community Services, for the Alaska System for
4 Early Education Development (SEED)”;

5 (7) the provision specifying \$25,000 for QUILL
6 Productions, Inc., Aston, PA, to develop and dis-
7 seminate programs to enhance the teaching of Amer-
8 ican history shall be deemed to read “QUILL Enter-
9 tainment Company, Aston, PA, to develop and dis-
10 seminate programs to enhance the teaching of Amer-
11 ican history”;

12 (8) the provision specifying \$780,000 for City
13 of St. Charles, MO for the St. Charles Foundry Arts
14 Center in support of arts education shall be deemed
15 to read “The Foundry Art Centre, St. Charles, Mis-
16 souri for support of arts education in conjunction
17 with the City of St. Charles, MO”;

18 (9) the provision specifying \$100,000 for Com-
19 munity Arts Program, Chester, PA, for arts edu-
20 cation shall be deemed to read “Chester Economic
21 Development Authority, Chester, PA for a commu-
22 nity arts program”;

23 (10) the provision specifying \$100,000 for Kids
24 with A Promise—The Bowery Mission, Bushkill, PA

1 shall be deemed to read “Kids with A Promise—The
2 Bowery Mission, New York, NY”;

3 (11) the provision specifying \$50,000 for Great
4 Projects Film Company, Inc., Washington, DC, to
5 produce “Educating America”, a documentary about
6 the challenges facing our public schools shall be
7 deemed to read “Great Projects Film Company,
8 Inc., New York, NY, to produce ‘Educating Amer-
9 ica’, a documentary about the challenges facing our
10 public schools”;

11 (12) the provision specifying \$30,000 for Sum-
12 mer Camp Opportunities Provide an Edge
13 (SCOPE), New York, NY for YMCA Camps
14 Skycrest, Speers and Elijabar shall be deemed to
15 read “American Camping Association for Summer
16 Camp Opportunities Provide an Edge (SCOPE),
17 New York, NY for YMCA Camps Skycrest and
18 Speers-Elijabar”; and

19 (13) the provision specifying \$163,000 for
20 Space Education Initiatives, Green Bay, WI for the
21 Wisconsin Space Science Initiative shall be deemed
22 to read “Space Education Initiatives, De Pere, WI
23 for the Wisconsin Space Science Initiative”.

24 SEC. 5010. In the statement of the managers of the
25 committee of conference accompanying H.R. 4818 (Public

1 Law 108–447; House Report 108–792), in the matter in
2 title III of division F, relating to the Fund for the Im-
3 provement of Postsecondary Education under the heading
4 “Higher Education”—

5 (1) the provision specifying \$145,000 for the
6 Belin-Blank Center at the University of Iowa, Iowa
7 City, IA for the Big 10 school initiative to improve
8 minority student access to Advanced Placement
9 courses shall be deemed to read “University of Iowa,
10 Iowa City, IA for the Iowa and Israel: Partners in
11 Excellence program to enhance math and science op-
12 portunities to rural Iowa students”;

13 (2) the provision specifying \$150,000 for Mercy
14 College, Dobbs Ferry, NY for the development of a
15 registered nursing program shall be deemed to read
16 “Mercy College, Dobbs Ferry, NY, for the develop-
17 ment of a master’s degree program in nursing edu-
18 cation, including marketing and recruitment activi-
19 ties”;

20 (3) the provision specifying \$100,000 for Uni-
21 versity of Alaska/Southeast to develop distance edu-
22 cation coursework for arctic engineering courses and
23 programs shall be deemed to read “University of
24 Alaska System Office to develop distance education

1 coursework for arctic engineering courses and pro-
2 grams”; and

3 (4) the provision specifying \$100,000 for Cul-
4 ver-Stockton College, Canton, MO for equipment
5 and technology shall be deemed to read “Moberly
6 Area Community College, Moberly, MO for equip-
7 ment and technology”.

8 SEC. 5011. The matter under the heading “Corpora-
9 tion for National and Community Service—National and
10 Community Service Programs Operating Expenses” in
11 title III of division I of Public Law 108–447 is amended
12 by inserting before the period at the end the following:
13 “: *Provided further*, That the Corporation may use up to
14 1 percent of program grant funds made available under
15 this heading to defray its costs of conducting grant appli-
16 cation reviews, including the use of outside peer review-
17 ers”.

18 SEC. 5012. Section 114 of title I of division I of the
19 Consolidated Appropriations Act, 2005 (Public Law 108–
20 447) is amended by inserting before the period “and sec-
21 tion 303 of Public Law 108–422”.

22 SEC. 5013. Section 117 of title I of division I of the
23 Consolidated Appropriations Act, 2005 (Public Law 108–
24 447) is amended by striking “that are deposited into the

1 Medical Care Collections Fund may be transferred and
2 merged with” and inserting “may be deposited into the”.

3 SEC. 5014. Section 1703(d)(2) of title 38, United
4 States Code, is amended by striking “shall be available
5 for the purposes” and inserting “shall be available, with-
6 out fiscal limitation, for the purposes”.

7 SEC. 5015. Section 621 of title VI of division B of
8 Public Law 108–199 is amended by striking “of pas-
9 senger, cargo and other aviation services”.

10 SEC. 5016. Section 619(a) of title VI of division B
11 of Public Law 108–447 is amended by striking “Asheville-
12 Buncombe Technical Community College” and inserting
13 “the International Small Business Institute”.

14 SEC. 5017. (a) Section 619(a) of title VI of division
15 B of Public Law 108–447 is amended by striking “for
16 the continued modernization of the Mason Building”.

17 (b) Section 621 of title VI of division B of Public
18 Law 108–199, as amended by Public Law 108–447, is
19 amended by striking “, for the continued modernization
20 of the Mason Building”.

21 SEC. 5018. The Department of Justice may transfer
22 funds from any Department of Justice account to “Deten-
23 tion Trustee”: *Provided*, That the notification requirement
24 in section 605(b) of title VI of division B of Public Law
25 108–447 shall remain in effect for any such transfers.

1 SEC. 5019. The referenced statement of managers
2 under the heading “Community Development Fund” in
3 title II of division K of Public Law 108–7 is deemed to
4 be amended—

5 (1) with respect to item number 39 by striking
6 “Conference and Workforce Center in Harrison, Ar-
7 kansas” and inserting “in Harrison, Arkansas for
8 facilities construction of the North Arkansas College
9 Health Sciences Education Center”; and

10 (2) with respect to item number 316 by striking
11 “for renovation of a visitor center to accommodate
12 a Space and Flight Center” and inserting “to build-
13 out the Prince George’s County Economic Develop-
14 ment and Business Assistance Center”.

15 SEC. 5020. The referenced statement of the man-
16 agers under the heading “Community Development Fund”
17 in title II of division G of Public Law 108–199 is deemed
18 to be amended—

19 (1) with respect to item number 56 by striking
20 “Conference and Training Center” and inserting
21 “North Arkansas College Health Sciences Education
22 Center”;

23 (2) with respect to item number 102 by striking
24 “to the Town of Groveland, California for purchase
25 of a youth center” and inserting “to the County of

1 Tuolomne for the purchase of a new youth center in
2 the mountain community of Groveland”;

3 (3) with respect to item number 218 by striking
4 “for construction” and inserting “for design and en-
5 gineering”;

6 (4) with respect to item number 472 by striking
7 “for sidewalk, curbs and facade improvements in the
8 Morton Avenue neighborhood” and inserting “for
9 streetscape renovation”; and

10 (5) with respect to item number 493 by striking
11 “for land acquisition” and inserting “for planning
12 and design of its Sports and Recreation Center and
13 Education Complex”.

14 SEC. 5021. The referenced statement of the man-
15 agers under the heading “Community Development Fund”
16 in title II of division I of Public Law 108–447 is deemed
17 to be amended as follows—

18 (1) with respect to item number 706 by striking
19 “ a public swimming pool” and inserting “recreation
20 fields”;

21 (2) with respect to item number 667 by striking
22 “to the Town of Appomattox, Virginia for facilities
23 construction of an African-American cultural and
24 heritage museum at the Carver-Price building” and

1 inserting “to the County of Appomattox, Virginia for
2 renovation of the Carver-Price building”;

3 (3) with respect to item number 668 by striking
4 “for the Town of South Boston, Virginia for renova-
5 tions and creation of a community arts center at the
6 Prizery” and inserting “for The Prizery in South
7 Boston, Virginia for renovations and creation of a
8 community arts center”;

9 (4) with respect to item number 669 by striking
10 “for the City of Moneta, Virginia for facilities con-
11 struction and renovations of an art, education, and
12 community outreach center” and inserting “for the
13 Moneta Arts, Education, and Community Outreach
14 Center in Moneta, Virginia for facilities construction
15 and renovations”;

16 (5) with respect to item number 910 by striking
17 “repairs to” and inserting “renovation and construc-
18 tion of”; and

19 (6) with respect to item number 902 by striking
20 “City of Brooklyn” and inserting “Fifth Ave Com-
21 mittee in Brooklyn”.

22 SEC. 5022. Section 308 of division B of Public Law
23 108–447 is amended by striking all after the words “shall
24 be deposited”, and inserting “as offsetting receipts to the
25 fund established under 28 U.S.C. 1931 and shall remain

1 available to the Judiciary until expended to reimburse any
2 appropriation for the amount paid out of such appropria-
3 tion for expenses of the Courts of Appeals, District
4 Courts, and Other Judicial Services and the Administra-
5 tive Offices of the United States Courts.”.

6 SEC. 5023. Section 198 of division H of Public Law
7 108–447 is amended by inserting “under title 23 of the
8 United States Code” after “law”.

9 SEC. 5024. The District of Columbia Appropriations
10 Act, 2005 (Public Law 108–335) approved October 18,
11 2004, is amended as follows:

12 (1) Section 331 is amended as follows:

13 (A) in the first sentence by striking the
14 word “\$15,000,000” and inserting
15 “\$42,000,000, to remain available until ex-
16 pended,” in its place; and

17 (B) by amending paragraph (5) to read as
18 follows:

19 “(5) The amounts may be obligated or ex-
20 pended only if the Mayor notifies the Committees on
21 Appropriations of the House of Representatives and
22 Senate in writing 30 days in advance of any obliga-
23 tion or expenditure.”.

24 (2) By inserting a new section before the short
25 title at the end to read as follows:

1 “SEC. 348. The amount appropriated by this Act may
2 be increased by an additional amount of \$206,736,000 (in-
3 cluding \$49,927,000 from local funds and \$156,809,000
4 from other funds) to be transferred by the Mayor of the
5 District of Columbia to the various headings under this
6 Act as follows:

7 “(1) \$174,927,000 (including \$34,927,000
8 from local funds, and \$140,000,000 from other
9 funds) shall be transferred under the heading ‘Gov-
10 ernment Direction and Support’: *Provided*, That of
11 the funds, \$33,000,000 from local funds shall re-
12 main available until expended: *Provided further*,
13 That of the funds, \$140,000,000 from other funds
14 shall remain available until expended and shall only
15 be available in conjunction with revenue from a pri-
16 vate or alternative financing proposal approved pur-
17 suant to section 106 of DC Act 15–717, the
18 ‘Ballpark Omnibus Financing and Revenue Act of
19 2004’ approved by the District of Columbia, Decem-
20 ber 29, 2004, and

21 “(2) \$15,000,000 from local funds shall be
22 transferred under the heading ‘Repayment of Loans
23 and Interest’, and

1 “(3) \$14,000,000 from other funds shall be
2 transferred under the heading ‘Sports and Enter-
3 tainment Commission’, and

4 “(4) \$2,809,000 from other funds shall be
5 transferred under the heading ‘Water and Sewer Au-
6 thority’.”.

7 TITLE VI—
8 HUMANITARIAN ASSISTANCE CODE OF
9 CONDUCT

10 **SEC. 6001. SHORT TITLE.**

11 This title may be cited as the “Humanitarian Assist-
12 ance Code of Conduct Act of 2005”.

13 **SEC. 6002. CODE OF CONDUCT FOR THE PROTECTION OF**
14 **BENEFICIARIES OF HUMANITARIAN ASSIST-**
15 **ANCE.**

16 (a) PROHIBITION.—None of the funds made available
17 for foreign operations, export financing, and related pro-
18 grams under the headings “Migration and Refugee Assist-
19 ance”, “United States Emergency Refugee and Migration
20 Assistance Fund”, “International Disaster and Famine
21 Assistance”, or “Transition Initiatives” may be obligated
22 to an organization that fails to adopt a code of conduct
23 that provides for the protection of beneficiaries of assist-
24 ance under any such heading from sexual exploitation and
25 abuse in humanitarian relief operations.

1 (b) SIX CORE PRINCIPLES.—The code of conduct re-
2 ferred to in subsection (a) shall, to the maximum extent
3 practicable, be consistent with the following six core prin-
4 ciples of the United Nations Inter-Agency Standing Com-
5 mittee Task Force on Protection From Sexual Exploi-
6 tation and Abuse in Humanitarian Crises:

7 (1) “Sexual exploitation and abuse by humani-
8 tarian workers constitute acts of gross misconduct
9 and are therefore grounds for termination of employ-
10 ment.”.

11 (2) “Sexual activity with children (persons
12 under the age of 18) is prohibited regardless of the
13 age of majority or age of consent locally. Mistaken
14 belief regarding the age of a child is not a defense.”.

15 (3) “Exchange of money, employment, goods, or
16 services for sex, including sexual favors or other
17 forms of humiliating, degrading or exploitative be-
18 havior, is prohibited. This includes exchange of as-
19 sistance that is due to beneficiaries.”.

20 (4) “Sexual relationships between humanitarian
21 workers and beneficiaries are strongly discouraged
22 since they are based on inherently unequal power dy-
23 namics. Such relationships undermine the credibility
24 and integrity of humanitarian aid work.”.

1 (5) “Where a humanitarian worker develops
2 concerns or suspicions regarding sexual abuse or ex-
3 ploitation by a fellow worker, whether in the same
4 agency or not, he or she must report such concerns
5 via established agency reporting mechanisms.”.

6 (6) “Humanitarian agencies are obliged to cre-
7 ate and maintain an environment which prevents
8 sexual exploitation and abuse and promotes the im-
9 plementation of their code of conduct. Managers at
10 all levels have particular responsibilities to support
11 and develop systems which maintain this environ-
12 ment.”.

13 **SEC. 6003. REPORT.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, and not later than one year after the
16 date of the enactment of this Act, the President shall
17 transmit to the Committee on Appropriations and the
18 Committee on International Relations of the House of
19 Representatives and the Committee on Appropriations and
20 the Committee on Foreign Relations of the Senate a de-
21 tailed report on the implementation of this title.

22 **SEC. 6004. EFFECTIVE DATE; APPLICABILITY.**

23 This title—

24 (1) takes effect 60 days after the date of the
25 enactment of this Act; and

1 (2) applies to funds obligated after the effective
2 date referred to in paragraph (1)—

3 (A) for fiscal year 2005; and

4 (B) any subsequent fiscal year.

5 TITLE VII—ADDITIONAL GENERAL PROVISIONS

6 SEC. 7001. None of the funds made available in this
7 Act may be used for embassy security, construction, and
8 maintenance.

9 SEC. 7002. None of the funds made available in this
10 Act may be used to fund any contract in contravention
11 of section 15(g)(2) of the Small Business Act (15 U.S.C.
12 644(g)(2)).

13 SEC. 7003. None of the funds made available in this
14 Act may be used in contravention of the following laws
15 enacted or regulations promulgated to implement the
16 United Nations Convention Against Torture and Other
17 Cruel, Inhuman or Degrading Treatment or Punishment
18 (done at New York on December 10, 1984):

19 (1) Section 2340A of title 18, United States
20 Code.

21 (2) Section 2242 of the Foreign Affairs Reform
22 and Restructuring Act of 1998 (division G of Public
23 Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231
24 note) and any regulations prescribed thereto, includ-
25 ing regulations under part 208 of title 8, Code of

1 Federal Regulations, and part 95 of title 22, Code
2 of Federal Regulations.

3 This division may be cited as the “Emergency Sup-
4 plemental Appropriations Act for Defense, the Global War
5 on Terror, and Tsunami Relief, 2005”.

6 **DIVISION B—REAL ID ACT OF**
7 **2005**

8 **SECTION 1. SHORT TITLE.**

9 This division may be cited as the “REAL ID Act of
10 2005”.

11 **TITLE I—AMENDMENTS TO FED-**
12 **ERAL LAWS TO PROTECT**
13 **AGAINST TERRORIST ENTRY**

14 **SEC. 101. PREVENTING TERRORISTS FROM OBTAINING RE-**
15 **LIEF FROM REMOVAL.**

16 (a) CONDITIONS FOR GRANTING ASYLUM.—Section
17 208(b)(1) of the Immigration and Nationality Act (8
18 U.S.C. 1158(b)(1)) is amended—

19 (1) by striking “The Attorney General” the
20 first place such term appears and inserting the fol-
21 lowing:

22 “(A) ELIGIBILITY.—The Secretary of
23 Homeland Security or the Attorney General”;

24 (2) by striking “the Attorney General” the sec-
25 ond and third places such term appears and insert-

1 ing “the Secretary of Homeland Security or the At-
2 torney General”; and

3 (3) by adding at the end the following:

4 “(B) BURDEN OF PROOF.—

5 “(i) IN GENERAL.—The burden of
6 proof is on the applicant to establish that
7 the applicant is a refugee, within the
8 meaning of section 101(a)(42)(A). To es-
9 tablish that the applicant is a refugee with-
10 in the meaning of such section, the appli-
11 cant must establish that race, religion, na-
12 tionality, membership in a particular social
13 group, or political opinion was or will be a
14 central reason for persecuting the appli-
15 cant.

16 “(ii) SUSTAINING BURDEN.—The tes-
17 timony of the applicant may be sufficient
18 to sustain the applicant’s burden without
19 corroboration, but only if the applicant sat-
20 isfies the trier of fact that the applicant’s
21 testimony is credible, is persuasive, and re-
22 fers to specific facts sufficient to dem-
23 onstrate that the applicant is a refugee. In
24 determining whether the applicant has met
25 the applicant’s burden, the trier of fact

1 may weigh the credible testimony along
2 with other evidence of record. Where the
3 trier of fact determines, in the trier of
4 fact's discretion, that the applicant should
5 provide evidence which corroborates other-
6 wise credible testimony, such evidence
7 must be provided unless the applicant does
8 not have the evidence and cannot reason-
9 ably obtain the evidence without departing
10 the United States. The inability to obtain
11 corroborating evidence does not excuse the
12 applicant from meeting the applicant's
13 burden of proof.

14 “(iii) CREDIBILITY DETERMINA-
15 TION.—The trier of fact should consider all
16 relevant factors and may, in the trier of
17 fact's discretion, base the trier of fact's
18 credibility determination on any such fac-
19 tor, including the demeanor, candor, or re-
20 sponsiveness of the applicant or witness,
21 the inherent plausibility of the applicant's
22 or witness's account, the consistency be-
23 tween the applicant's or witness's written
24 and oral statements (whenever made and
25 whether or not made under oath), the in-

1 ternal consistency of each such statement,
2 the consistency of such statements with
3 other evidence of record (including the re-
4 ports of the Department of State on coun-
5 try conditions), and any inaccuracies or
6 falsehoods in such statements, without re-
7 gard to whether an inconsistency, inaccu-
8 racy, or falsehood goes to the heart of the
9 applicant's claim. There is no presumption
10 of credibility.”.

11 (b) WITHHOLDING OF REMOVAL.—Section 241(b)(3)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1231(b)(3)) is amended by adding at the end the fol-
14 lowing:

15 “(C) SUSTAINING BURDEN OF PROOF;
16 CREDIBILITY DETERMINATIONS.—In deter-
17 mining whether an alien has demonstrated that
18 the alien's life or freedom would be threatened
19 for a reason described in subparagraph (A), the
20 trier of fact shall determine whether the alien
21 has sustained the alien's burden of proof, and
22 shall make credibility determinations, in the
23 manner described in clauses (ii) and (iii) of sec-
24 tion 208(b)(1)(B).”.

1 (c) OTHER REQUESTS FOR RELIEF FROM RE-
2 MOVAL.—Section 240(c) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1230(c)) is amended—

4 (1) by redesignating paragraphs (4), (5), and
5 (6) as paragraphs (5), (6), and (7), respectively; and

6 (2) by inserting after paragraph (3) the fol-
7 lowing:

8 “(4) APPLICATIONS FOR RELIEF FROM RE-
9 MOVAL.—

10 “(A) IN GENERAL.—An alien applying for
11 relief or protection from removal has the bur-
12 den of proof to establish that the alien—

13 “(i) satisfies the applicable eligibility
14 requirements; and

15 “(ii) with respect to any form of relief
16 that is granted in the exercise of discre-
17 tion, that the alien merits a favorable exer-
18 cise of discretion.

19 “(B) SUSTAINING BURDEN.—The appli-
20 cant must comply with the applicable require-
21 ments to submit information or documentation
22 in support of the applicant’s application for re-
23 lief or protection as provided by law or by regu-
24 lation or in the instructions for the application
25 form. In evaluating the testimony of the appli-

1 cant or other witness in support of the applica-
2 tion, the immigration judge will determine
3 whether or not the testimony is credible, is per-
4 suasive, and refers to specific facts sufficient to
5 demonstrate that the applicant has satisfied the
6 applicant's burden of proof. In determining
7 whether the applicant has met such burden, the
8 immigration judge shall weigh the credible testi-
9 mony along with other evidence of record.
10 Where the immigration judge determines in the
11 judge's discretion that the applicant should pro-
12 vide evidence which corroborates otherwise cred-
13 ible testimony, such evidence must be provided
14 unless the applicant demonstrates that the ap-
15 plicant does not have the evidence and cannot
16 reasonably obtain the evidence without depart-
17 ing from the United States. The inability to ob-
18 tain corroborating evidence does not excuse the
19 applicant from meeting the burden of proof.

20 “(C) CREDIBILITY DETERMINATION.—The
21 immigration judge should consider all relevant
22 factors and may, in the judge's discretion, base
23 the judge's credibility determination on any
24 such factor, including the demeanor, candor, or
25 responsiveness of the applicant or witness, the

1 inherent plausibility of the applicant's or
2 witness's account, the consistency between the
3 applicant's or witness's written and oral state-
4 ments (whenever made and whether or not
5 made under oath), the internal consistency of
6 each such statement, the consistency of such
7 statements with other evidence of record (in-
8 cluding the reports of the Department of State
9 on country conditions), and any inaccuracies or
10 falsehoods in such statements, without regard
11 to whether an inconsistency, inaccuracy, or
12 falsehood goes to the heart of the applicant's
13 claim. There is no presumption of credibility.”.

14 (d) STANDARD OF REVIEW FOR ORDERS OF RE-
15 MOVAL.—Section 242(b)(4) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1252(b)(4)) is amended by adding
17 at the end, after subparagraph (D), the following: “No
18 court shall reverse a determination made by a trier of fact
19 with respect to the availability of corroborating evidence,
20 as described in section 208(b)(1)(B), 240(c)(4)(B), or
21 241(b)(3)(C), unless the court finds that a reasonable
22 trier of fact is compelled to conclude that such corrobo-
23 rating evidence is unavailable.”.

1 (e) CLARIFICATION OF DISCRETION.—Section
2 242(a)(2)(B) of the Immigration and Nationality Act (8
3 U.S.C. 1252(a)(2)(B)) is amended—

4 (1) by inserting “or the Secretary of Homeland
5 Security” after “Attorney General” each place such
6 term appears; and

7 (2) in the matter preceding clause (i), by insert-
8 ing “and regardless of whether the judgment, deci-
9 sion, or action is made in removal proceedings,”
10 after “other provision of law,”.

11 (f) REMOVAL OF CAPS.—Section 209 of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1159) is amended—

13 (1) in subsection (a)(1)—

14 (A) by striking “Service” and inserting
15 “Department of Homeland Security”; and

16 (B) by striking “Attorney General” each
17 place such term appears and inserting “Sec-
18 retary of Homeland Security or the Attorney
19 General”;

20 (2) in subsection (b)—

21 (A) by striking “Not more” and all that
22 follows through “asylum who—” and inserting
23 “The Secretary of Homeland Security or the
24 Attorney General, in the Secretary’s or the At-
25 torney General’s discretion and under such reg-

1 ulations as the Secretary or the Attorney Gen-
2 eral may prescribe, may adjust to the status of
3 an alien lawfully admitted for permanent resi-
4 dence the status of any alien granted asylum
5 who—”; and

6 (B) in the matter following paragraph (5),
7 by striking “Attorney General” and inserting
8 “Secretary of Homeland Security or the Attor-
9 ney General”; and

10 (3) in subsection (c), by striking “Attorney
11 General” and inserting “Secretary of Homeland Se-
12 curity or the Attorney General”.

13 (g) EFFECTIVE DATES.—

14 (1) The amendments made by paragraphs (1)
15 and (2) of subsection (a) shall take effect as if en-
16 acted on March 1, 2003.

17 (2) The amendments made by subsections
18 (a)(3), (b), and (c) shall take effect on the date of
19 the enactment of this division and shall apply to ap-
20 plications for asylum, withholding, or other removal
21 made on or after such date.

22 (3) The amendment made by subsection (d)
23 shall take effect on the date of the enactment of this
24 division and shall apply to all cases in which the

1 final administrative removal order is or was issued
2 before, on, or after such date.

3 (4) The amendments made by subsection (e)
4 shall take effect on the date of the enactment of this
5 division and shall apply to all cases pending before
6 any court on or after such date.

7 (5) The amendments made by subsection (f)
8 shall take effect on the date of the enactment of this
9 division.

10 (h) REPEAL.—Section 5403 of the Intelligence Re-
11 form and Terrorism Prevention Act of 2004 (Public Law
12 108–458) is repealed.

13 **SEC. 102. WAIVER OF LAWS NECESSARY FOR IMPROVE-**
14 **MENT OF BARRIERS AT BORDERS.**

15 Section 102(c) of the Illegal Immigration Reform and
16 Immigrant Responsibility Act of 1996 (8 U.S.C. 1103
17 note) is amended to read as follows:

18 “(c) WAIVER.—

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of law, the Secretary of Homeland Security
21 shall have the authority to waive, and shall waive, all
22 laws such Secretary, in such Secretary’s sole discre-
23 tion, determines necessary to ensure expeditious con-
24 struction of the barriers and roads under this sec-
25 tion.

1 “(2) NO JUDICIAL REVIEW.—Notwithstanding
 2 any other provision of law (statutory or nonstatu-
 3 tory), no court, administrative agency, or other enti-
 4 ty shall have jurisdiction—

5 “(A) to hear any cause or claim arising
 6 from any action undertaken, or any decision
 7 made, by the Secretary of Homeland Security
 8 pursuant to paragraph (1); or

9 “(B) to order compensatory, declaratory,
 10 injunctive, equitable, or any other relief for
 11 damage alleged to arise from any such action or
 12 decision.”.

13 **SEC. 103. INADMISSIBILITY DUE TO TERRORIST AND TER-**
 14 **RORIST-RELATED ACTIVITIES.**

15 (a) IN GENERAL.—So much of section
 16 212(a)(3)(B)(i) of the Immigration and Nationality Act
 17 (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence
 18 is amended to read as follows:

19 “(i) IN GENERAL.—Any alien who—

20 “(I) has engaged in a terrorist
 21 activity;

22 “(II) a consular officer, the At-
 23 torney General, or the Secretary of
 24 Homeland Security knows, or has rea-
 25 sonable ground to believe, is engaged

1 in or is likely to engage after entry in
2 any terrorist activity (as defined in
3 clause (iv));

4 “(III) has, under circumstances
5 indicating an intention to cause death
6 or serious bodily harm, incited ter-
7 rorist activity;

8 “(IV) is a representative (as de-
9 fined in clause (v)) of—

10 “(aa) a terrorist organiza-
11 tion (as defined in clause (vi)); or

12 “(bb) a political, social, or
13 other group that endorses or es-
14 pouses terrorist activity;

15 “(V) is a member of a terrorist
16 organization described in subclause (I)
17 or (II) of clause (vi);

18 “(VI) is a member of a terrorist
19 organization described in clause
20 (vi)(III), unless the alien can dem-
21 onstrate by clear and convincing evi-
22 dence that the alien did not know, and
23 should not reasonably have known,
24 that the organization was a terrorist
25 organization;

1 “(VII) endorses or espouses ter-
 2 rorist activity or persuades others to
 3 endorse or espouse terrorist activity or
 4 support a terrorist organization;

5 “(VIII) has received military-type
 6 training (as defined in section
 7 2339D(c)(1) of title 18, United States
 8 Code) from or on behalf of any orga-
 9 nization that, at the time the training
 10 was received, was a terrorist organiza-
 11 tion (as defined in clause (vi)); or

12 “(IX) is the spouse or child of an
 13 alien who is inadmissible under this
 14 subparagraph, if the activity causing
 15 the alien to be found inadmissible oc-
 16 curred within the last 5 years,
 17 is inadmissible.”.

18 (b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—
 19 Section 212(a)(3)(B)(iv) of the Immigration and Nation-
 20 ality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read
 21 as follows:

22 “(iv) ENGAGE IN TERRORIST ACTIVITY
 23 DEFINED.—As used in this Act, the term
 24 ‘engage in terrorist activity’ means, in an

individual capacity or as a member of an organization—

“(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

“(II) to prepare or plan a terrorist activity;

“(III) to gather information on potential targets for terrorist activity;

“(IV) to solicit funds or other things of value for—

“(aa) a terrorist activity;

“(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

1 “(V) to solicit any individual—

2 “(aa) to engage in conduct
3 otherwise described in this sub-
4 section;

5 “(bb) for membership in a
6 terrorist organization described
7 in clause (vi)(I) or (vi)(II); or

8 “(cc) for membership in a
9 terrorist organization described
10 in clause (vi)(III) unless the so-
11 licitor can demonstrate by clear
12 and convincing evidence that he
13 did not know, and should not
14 reasonably have known, that the
15 organization was a terrorist orga-
16 nization; or

17 “(VI) to commit an act that the
18 actor knows, or reasonably should
19 know, affords material support, in-
20 cluding a safe house, transportation,
21 communications, funds, transfer of
22 funds or other material financial ben-
23 efit, false documentation or identifica-
24 tion, weapons (including chemical, bi-

1 ological, or radiological weapons), ex-
2 plosives, or training—

3 “(aa) for the commission of
4 a terrorist activity;

5 “(bb) to any individual who
6 the actor knows, or reasonably
7 should know, has committed or
8 plans to commit a terrorist activ-
9 ity;

10 “(cc) to a terrorist organiza-
11 tion described in subclause (I) or
12 (II) of clause (vi) or to any mem-
13 ber of such an organization; or

14 “(dd) to a terrorist organi-
15 zation described in clause
16 (vi)(III), or to any member of
17 such an organization, unless the
18 actor can demonstrate by clear
19 and convincing evidence that the
20 actor did not know, and should
21 not reasonably have known, that
22 the organization was a terrorist
23 organization.

24 This clause shall not apply to any material
25 support the alien afforded to an organiza-

tion or individual that has committed terrorist activity, if the Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Attorney General, after consultation with the Secretary of State and the Secretary of Homeland Security, concludes in his sole unreviewable discretion, that this clause should not apply.”.

(c) **TERRORIST ORGANIZATION DEFINED.**—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

“(vi) **TERRORIST ORGANIZATION DEFINED.**—As used in this section, the term ‘terrorist organization’ means an organization—

“(I) designated under section 219;

“(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist or-

1 ganization, after finding that the or-
2 ganization engages in the activities
3 described in subclauses (I) through
4 (VI) of clause (iv); or

5 “(III) that is a group of two or
6 more individuals, whether organized
7 or not, which engages in, or has a
8 subgroup which engages in, the activi-
9 ties described in subclauses (I)
10 through (VI) of clause (iv).”.

11 (d) **EFFECTIVE DATE.**—The amendments made by
12 this section shall take effect on the date of the enactment
13 of this division, and these amendments, and section
14 212(a)(3)(B) of the Immigration and Nationality Act (8
15 U.S.C. 1182(a)(3)(B)), as amended by this section, shall
16 apply to—

17 (1) removal proceedings instituted before, on, or
18 after the date of the enactment of this division; and

19 (2) acts and conditions constituting a ground
20 for inadmissibility, excludability, deportation, or re-
21 moval occurring or existing before, on, or after such
22 date.

23 **SEC. 104. REMOVAL OF TERRORISTS.**

24 (a) **IN GENERAL.**—

1 (1) IN GENERAL.—Section 237(a)(4)(B) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1227(a)(4)(B)) is amended to read as follows:

4 “(B) TERRORIST ACTIVITIES.—Any alien
5 who is described in subparagraph (B) or (F) of
6 section 212(a)(3) is deportable.”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by paragraph (1) shall take effect on the date of the
9 enactment of this division, and the amendment, and
10 section 237(a)(4)(B) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1227(a)(4)(B)), as amended
12 by such paragraph, shall apply to—

13 (A) removal proceedings instituted before,
14 on, or after the date of the enactment of this
15 division; and

16 (B) acts and conditions constituting a
17 ground for inadmissibility, excludability, depor-
18 tation, or removal occurring or existing before,
19 on, or after such date.

20 (b) REPEAL.—Effective as of the date of the enact-
21 ment of the Intelligence Reform and Terrorism Prevention
22 Act of 2004 (Public Law 108–458), section 5402 of such
23 Act is repealed, and the Immigration and Nationality Act
24 shall be applied as if such section had not been enacted.

1 **SEC. 105. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

2 (a) IN GENERAL.—Section 242 of the Immigration
3 and Nationality Act (8 U.S.C. 1252) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (2)—

6 (i) in subparagraph (A), by inserting
7 “(statutory or nonstatutory), including sec-
8 tion 2241 of title 28, United States Code,
9 or any other habeas corpus provision, and
10 sections 1361 and 1651 of such title” after
11 “Notwithstanding any other provision of
12 law”;

13 (ii) in each of subparagraphs (B) and
14 (C), by inserting “(statutory or nonstatu-
15 tory), including section 2241 of title 28,
16 United States Code, or any other habeas
17 corpus provision, and sections 1361 and
18 1651 of such title, and except as provided
19 in subparagraph (D)” after “Notwith-
20 standing any other provision of law”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(D) JUDICIAL REVIEW OF CERTAIN
24 LEGAL CLAIMS.—Nothing in subparagraph (B)
25 or (C), or in any other provision of this Act
26 which limits or eliminates judicial review, shall

1 be construed as precluding review of constitu-
2 tional claims or pure questions of law raised
3 upon a petition for review filed with an appro-
4 priate court of appeals in accordance with this
5 section.”; and

6 (B) by adding at the end the following:

7 “(4) CLAIMS UNDER THE UNITED NATIONS
8 CONVENTION.—Notwithstanding any other provision
9 of law (statutory or nonstatutory), including section
10 2241 of title 28, United States Code, or any other
11 habeas corpus provision, and sections 1361 and
12 1651 of such title, a petition for review filed with an
13 appropriate court of appeals in accordance with this
14 section shall be the sole and exclusive means for ju-
15 dicial review of any cause or claim under the United
16 Nations Convention Against Torture and Other
17 Forms of Cruel, Inhuman, or Degrading Treatment
18 or Punishment, except as provided in subsection (e).

19 “(5) EXCLUSIVE MEANS OF REVIEW.—Notwith-
20 standing any other provision of law (statutory or
21 nonstatutory), including section 2241 of title 28,
22 United States Code, or any other habeas corpus pro-
23 vision, and sections 1361 and 1651 of such title, a
24 petition for review filed with an appropriate court of
25 appeals in accordance with this section shall be the

1 sole and exclusive means for judicial review of an
2 order of removal entered or issued under any provi-
3 sion of this Act, except as provided in subsection (e).
4 For purposes of this Act, in every provision that lim-
5 its or eliminates judicial review or jurisdiction to re-
6 view, the terms ‘judicial review’ and ‘jurisdiction to
7 review’ include habeas corpus review pursuant to
8 section 2241 of title 28, United States Code, or any
9 other habeas corpus provision, sections 1361 and
10 1651 of such title, and review pursuant to any other
11 provision of law (statutory or nonstatutory).”;

12 (2) in subsection (b)—

13 (A) in paragraph (3)(B), by inserting
14 “pursuant to subsection (f)” after “unless”;
15 and

16 (B) in paragraph (9), by adding at the end
17 the following: “Except as otherwise provided in
18 this section, no court shall have jurisdiction, by
19 habeas corpus under section 2241 of title 28,
20 United States Code, or any other habeas corpus
21 provision, by section 1361 or 1651 of such title,
22 or by any other provision of law (statutory or
23 nonstatutory), to review such an order or such
24 questions of law or fact.”; and

1 (3) in subsection (g), by inserting “(statutory
2 or nonstatutory), including section 2241 of title 28,
3 United States Code, or any other habeas corpus pro-
4 vision, and sections 1361 and 1651 of such title”
5 after “notwithstanding any other provision of law”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall take effect upon the date of the enact-
8 ment of this division and shall apply to cases in which
9 the final administrative order of removal, deportation, or
10 exclusion was issued before, on, or after the date of the
11 enactment of this division.

12 (c) TRANSFER OF CASES.—If an alien’s case, brought
13 under section 2241 of title 28, United States Code, and
14 challenging a final administrative order of removal, depor-
15 tation, or exclusion, is pending in a district court on the
16 date of the enactment of this division, then the district
17 court shall transfer the case (or the part of the case that
18 challenges the order of removal, deportation, or exclusion)
19 to the court of appeals for the circuit in which a petition
20 for review could have been properly filed under section
21 242(b)(2) of the Immigration and Nationality Act (8
22 U.S.C. 1252), as amended by this section, or under section
23 309(c)(4)(D) of the Illegal Immigration Reform and Im-
24 migrant Responsibility Act of 1996 (8 U.S.C. 1101 note).
25 The court of appeals shall treat the transferred case as

1 if it had been filed pursuant to a petition for review under
2 such section 242, except that subsection (b)(1) of such
3 section shall not apply.

4 (d) TRANSITIONAL RULE CASES.—A petition for re-
5 view filed under former section 106(a) of the Immigration
6 and Nationality Act (as in effect before its repeal by sec-
7 tion 306(b) of the Illegal Immigration Reform and Immi-
8 grant Responsibility Act of 1996 (8 U.S.C. 1252 note))
9 shall be treated as if it had been filed as a petition for
10 review under section 242 of the Immigration and Nation-
11 ality Act (8 U.S.C. 1252), as amended by this section.
12 Notwithstanding any other provision of law (statutory or
13 nonstatutory), including section 2241 of title 28, United
14 States Code, or any other habeas corpus provision, and
15 sections 1361 and 1651 of such title, such petition for re-
16 view shall be the sole and exclusive means for judicial re-
17 view of an order of deportation or exclusion.

18 **SEC. 106. DELIVERY BONDS.**

19 (a) DEFINITIONS.—For purposes of this section:

20 (1) DELIVERY BOND.—The term “delivery
21 bond” means a written suretyship undertaking for
22 the surrender of an individual against whom the De-
23 partment of Homeland Security has issued an order
24 to show cause or a notice to appear, the performance

1 of which is guaranteed by an acceptable surety on
2 Federal bonds.

3 (2) PRINCIPAL.—The term “principal” means
4 an individual who is the subject of a bond.

5 (3) SURETYSHIP UNDERTAKING.—The term
6 “suretyship undertaking” means a written agree-
7 ment, executed by a bonding agent on behalf of a
8 surety, which binds all parties to its certain terms
9 and conditions and which provides obligations for
10 the principal and the surety while under the bond
11 and penalties for forfeiture to ensure the obligations
12 of the principal and the surety under the agreement.

13 (4) BONDING AGENT.—The term “bonding
14 agent” means any individual properly licensed, ap-
15 proved, and appointed by power of attorney to exe-
16 cute or countersign surety bonds in connection with
17 any matter governed by the Immigration and Na-
18 tionality Act as amended (8 U.S.C. 1101, et seq.),
19 and who receives a premium for executing or
20 countersigning such surety bonds.

21 (5) SURETY.—The term “surety” means an en-
22 tity, as defined by, and that is in compliance with,
23 sections 9304 through 9308 of title 31, United
24 States Code, that agrees—

1 (A) to guarantee the performance, where
2 appropriate, of the principal under a bond;

3 (B) to perform the bond as required; and

4 (C) to pay the face amount of the bond as
5 a penalty for failure to perform.

6 (b) VALIDITY, AGENT NOT CO-OBLIGOR, EXPIRA-
7 TION, RENEWAL, AND CANCELLATION OF BONDS.—

8 (1) VALIDITY.—Delivery bond undertakings are
9 valid if such bonds—

10 (A) state the full, correct, and proper
11 name of the alien principal;

12 (B) state the amount of the bond;

13 (C) are guaranteed by a surety and
14 countersigned by an agent who is properly ap-
15 pointed;

16 (D) bond documents are properly executed;
17 and

18 (E) relevant bond documents are properly
19 filed with the Secretary of Homeland Security.

20 (2) BONDING AGENT NOT CO-OBLIGOR, PARTY,
21 OR GUARANTOR IN INDIVIDUAL CAPACITY, AND NO
22 REFUSAL IF ACCEPTABLE SURETY.—Section
23 9304(b) of title 31, United States Code, is amended
24 by adding at the end the following: “Notwith-
25 standing any other provision of law, no bonding

1 agent of a corporate surety shall be required to exe-
2 cute bonds as a co-obligor, party, or guarantor in an
3 individual capacity on bonds provided by the cor-
4 porate surety, nor shall a corporate surety bond be
5 refused if the corporate surety appears on the cur-
6 rent Treasury Department Circular 570 as a com-
7 pany holding a certificate of authority as an accept-
8 able surety on Federal bonds and attached to the
9 bond is a currently valid instrument showing the au-
10 thority of the bonding agent of the surety company
11 to execute the bond.”.

12 (3) EXPIRATION.—A delivery bond undertaking
13 shall expire at the earliest of—

14 (A) 1 year from the date of issue;

15 (B) at the cancellation of the bond or sur-
16 render of the principal; or

17 (C) immediately upon nonpayment of the
18 renewal premium.

19 (4) RENEWAL.—Delivery bonds may be re-
20 newed annually, with payment of proper premium to
21 the surety, if there has been no breach of conditions,
22 default, claim, or forfeiture of the bond. Notwith-
23 standing any renewal, when the alien is surrendered
24 to the Secretary of Homeland Security for removal,
25 the Secretary shall cause the bond to be canceled.

1 (5) CANCELLATION.—Delivery bonds shall be
2 canceled and the surety exonerated—

3 (A) for nonrenewal after the alien has been
4 surrendered to the Department of Homeland
5 Security for removal;

6 (B) if the surety or bonding agent provides
7 reasonable evidence that there was misrepresen-
8 tation or fraud in the application for the bond;

9 (C) upon the death or incarceration of the
10 principal, or the inability of the surety to
11 produce the principal for medical reasons;

12 (D) if the principal is detained by any law
13 enforcement agency of any State, county, city,
14 or any political subdivision thereof;

15 (E) if it can be established that the alien
16 departed the United States of America for any
17 reason without permission of the Secretary of
18 Homeland Security, the surety, or the bonding
19 agent;

20 (F) if the foreign state of which the prin-
21 cipal is a national is designated pursuant to
22 section 244 of the Act (8 U.S.C. 1254a) after
23 the bond is posted; or

1 (G) if the principal is surrendered to the
2 Department of Homeland Security, removal by
3 the surety or the bonding agent.

4 (6) SURRENDER OF PRINCIPAL; FORFEITURE
5 OF BOND PREMIUM.—

6 (A) SURRENDER.—At any time, before a
7 breach of any of the bond conditions, if in the
8 opinion of the surety or bonding agent, the
9 principal becomes a flight risk, the principal
10 may be surrendered to the Department of
11 Homeland Security for removal.

12 (B) FORFEITURE OF BOND PREMIUM.—A
13 principal may be surrendered without the re-
14 turn of any bond premium if the principal—

15 (i) changes address without notifying
16 the surety, the bonding agent, and the Sec-
17 retary of Homeland Security in writing
18 prior to such change;

19 (ii) hides or is concealed from a sur-
20 ety, a bonding agent, or the Secretary;

21 (iii) fails to report to the Secretary as
22 required at least annually; or

23 (iv) violates the contract with the
24 bonding agent or surety, commits any act
25 that may lead to a breach of the bond, or

1 otherwise violates any other obligation or
2 condition of the bond established by the
3 Secretary.

4 (7) CERTIFIED COPY OF BOND AND ARREST
5 WARRANT TO ACCOMPANY SURRENDER.—

6 (A) IN GENERAL.—A bonding agent or
7 surety desiring to surrender the principal—

8 (i) shall have the right to petition the
9 Secretary of Homeland Security or any
10 Federal court, without having to pay any
11 fees or court costs, for an arrest warrant
12 for the arrest of the principal;

13 (ii) shall forthwith be provided 2 cer-
14 tified copies each of the arrest warrant and
15 the bond undertaking, without having to
16 pay any fees or courts costs; and

17 (iii) shall have the right to pursue, ap-
18 prehend, detain, and surrender the prin-
19 cipal, together with certified copies of the
20 arrest warrant and the bond undertaking,
21 to any Department of Homeland Security
22 detention official or Department detention
23 facility or any detention facility authorized
24 to hold Federal detainees.

1 (B) EFFECTS OF DELIVERY.—Upon sur-
2 render of a principal under subparagraph
3 (A)(iii)—

4 (i) the official to whom the principal
5 is surrendered shall detain the principal in
6 custody and issue a written certificate of
7 surrender; and

8 (ii) the Secretary of Homeland Secu-
9 rity shall immediately exonerate the surety
10 from any further liability on the bond.

11 (8) FORM OF BOND.—Delivery bonds shall in
12 all cases state the following and be secured by a cor-
13 porate surety that is certified as an acceptable sur-
14 ety on Federal bonds and whose name appears on
15 the current Treasury Department Circular 570:

16 “(A) BREACH OF BOND; PROCEDURE, FOR-
17 FEITURE, NOTICE.—

18 “(i) If a principal violates any condi-
19 tions of the delivery bond, or the principal
20 is or becomes subject to a final administra-
21 tive order of deportation or removal, the
22 Secretary of Homeland Security shall—

23 “(I) immediately issue a warrant
24 for the principal’s arrest and enter
25 that arrest warrant into the National

1 Crime Information Center (NCIC)
2 computerized information database;

3 “(II) order the bonding agent
4 and surety to take the principal into
5 custody and surrender the principal to
6 any one of 10 designated Department
7 of Homeland Security ‘turn-in’ cen-
8 ters located nationwide in the areas of
9 greatest need, at any time of day dur-
10 ing 15 months after mailing the ar-
11 rest warrant and the order to the
12 bonding agent and the surety as re-
13 quired by subclause (III), and imme-
14 diately enter that order into the Na-
15 tional Crime Information Center
16 (NCIC) computerized information
17 database; and

18 “(III) mail 2 certified copies each
19 of the arrest warrant issued pursuant
20 to subclause (I) and 2 certified copies
21 each of the order issued pursuant to
22 subclause (II) to only the bonding
23 agent and surety via certified mail re-
24 turn receipt to their last known ad-
25 dresses.

1 “(ii) Bonding agents and sureties
2 shall immediately notify the Secretary of
3 Homeland Security of their changes of ad-
4 dress and/or telephone numbers.

5 “(iii) The Secretary of Homeland Se-
6 curity shall establish, disseminate to bond-
7 ing agents and sureties, and maintain on a
8 current basis a secure nationwide toll-free
9 list of telephone numbers of Department of
10 Homeland Security officials, including the
11 names of such officials, that bonding
12 agents, sureties, and their employees may
13 immediately contact at any time to discuss
14 and resolve any issue regarding any prin-
15 cipal or bond, to be known as ‘Points of
16 Contact’.

17 “(iv) A bonding agent or surety shall
18 have full and complete access, free of
19 charge, to any and all information, elec-
20 tronic or otherwise, in the care, custody,
21 and control of the United States Govern-
22 ment or any State or local government or
23 any subsidiary or police agency thereof re-
24 garding the principal that may be helpful
25 in complying with section 105 of the

1 REAL ID Act of 2005 that the Secretary
2 of Homeland Security, by regulations sub-
3 ject to approval by Congress, determines
4 may be helpful in locating or surrendering
5 the principal. Beyond the principal, a
6 bonding agent or surety shall not be re-
7 quired to disclose any information, includ-
8 ing but not limited to the arrest warrant
9 and order, received from any governmental
10 source, any person, firm, corporation, or
11 other entity.

12 “(v) If the principal is later arrested,
13 detained, or otherwise located outside the
14 United States and the outlying possessions
15 of the United States (as defined in section
16 101(a) of the Immigration and Nationality
17 Act), the Secretary of Homeland Security
18 shall—

19 “(I) immediately order that the
20 surety is completely exonerated, and
21 the bond canceled; and

22 “(II) if the Secretary of Home-
23 land Security has issued an order
24 under clause (i), the surety may re-
25 quest, by written, properly filed mo-

1 tion, reinstatement of the bond. This
2 subclause may not be construed to
3 prevent the Secretary of Homeland
4 Security from revoking or resetting a
5 bond at a higher amount.

6 “(vi) The bonding agent or surety
7 must—

8 “(I) during the 15 months after
9 the date the arrest warrant and order
10 were mailed pursuant to clause
11 (i)(III) surrender the principal one
12 time; or

13 “(II)(aa) provide reasonable evi-
14 dence that producing the principal
15 was prevented—

16 “(aaa) by the principal’s ill-
17 ness or death;

18 “(bbb) because the principal
19 is detained in custody in any city,
20 State, country, or any political
21 subdivision thereof;

22 “(ccc) because the principal
23 has left the United States or its
24 outlying possessions (as defined
25 in section 101(a) of the Immigra-

tion and Nationality Act (8
U.S.C. 1101(a)); or

“(ddd) because required notice was not given to the bonding agent or surety; and

“(bb) establish by affidavit that the inability to produce the principal was not with the consent or connivance of the bonding agent or surety.

“(vii) If compliance occurs more than 15 months but no more than 18 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 25 percent of the face amount of the bond shall be assessed as a penalty against the surety.

“(viii) If compliance occurs more than 18 months but no more than 21 months after the mailing of the arrest warrant and order to the bonding agent and the surety required under clause (i)(III), an amount equal to 50 percent of the face amount of the bond shall be assessed as a penalty against the surety.

1 “(ix) If compliance occurs more than
2 21 months but no more than 24 months
3 after the mailing of the arrest warrant and
4 order to the bonding agent and the surety
5 required under clause (i)(III), an amount
6 equal to 75 percent of the face amount of
7 the bond shall be assessed as a penalty
8 against the surety.

9 “(x) If compliance occurs 24 months
10 or more after the mailing of the arrest
11 warrant and order to the bonding agent
12 and the surety required under clause
13 (i)(III), an amount equal to 100 percent of
14 the face amount of the bond shall be as-
15 sessed as a penalty against the surety.

16 “(xi) If any surety surrenders any
17 principal to the Secretary of Homeland Se-
18 curity at any time and place after the pe-
19 riod for compliance has passed, the Sec-
20 retary of Homeland Security shall cause to
21 be issued to that surety an amount equal
22 to 50 percent of the face amount of the
23 bond: *Provided, however,* That if that sur-
24 ety owes any penalties on bonds to the
25 United States, the amount that surety

1 would otherwise receive shall be offset by
2 and applied as a credit against the amount
3 of penalties on bonds it owes the United
4 States, and then that surety shall receive
5 the remainder of the amount to which it is
6 entitled under this subparagraph, if any.

7 “(xii) All penalties assessed against a
8 surety on a bond, if any, shall be paid by
9 the surety no more than 27 months after
10 the mailing of the arrest warrant and
11 order to the bonding agent and the surety
12 required under clause (i)(III).

13 “(B) The Secretary of Homeland Security
14 may waive penalties or extend the period for
15 payment or both, if—

16 “(i) a written request is filed with the
17 Secretary of Homeland Security; and

18 “(ii) the bonding agent or surety pro-
19 vides an affidavit that diligent efforts were
20 made to effect compliance of the principal.

21 “(C) COMPLIANCE; EXONERATION; LIMITA-
22 TION OF LIABILITY.—

23 “(i) COMPLIANCE.—A bonding agent
24 or surety shall have the absolute right to
25 locate, apprehend, arrest, detain, and sur-

1 render any principal, wherever he or she
2 may be found, who violates any of the
3 terms and conditions of his or her bond.

4 “(ii) EXONERATION.—Upon satisfying
5 any of the requirements of the bond, the
6 surety shall be completely exonerated.

7 “(iii) LIMITATION OF LIABILITY.—
8 Notwithstanding any other provision of
9 law, the total liability on any surety under-
10 taking shall not exceed the face amount of
11 the bond.”.

12 (c) EFFECTIVE DATE.—The provisions of this section
13 shall take effect on the date of the enactment of this divi-
14 sion and shall apply to bonds and surety undertakings exe-
15 cuted before, on, or after the date of the enactment of
16 this division.

17 **SEC. 107. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

18 (a) IN GENERAL.—Section 236(a)(2) of the Immi-
19 gration and Nationality Act (8 U.S.C. 1226(a)(2)) is
20 amended to read as follows:

21 “(2) subject to such reasonable regulations as
22 the Secretary of Homeland Security may prescribe,
23 shall permit agents, servants, and employees of cor-
24 porate sureties to visit in person with individuals de-
25 tained by the Secretary of and, subject to section

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this division.

(a) IN GENERAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended by adding at the end the following:

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1 of removal, and cancel any bond previously posted
 2 for the alien, if the alien is produced within the pre-
 3 scribed time limit by the obligor on the bond wheth-
 4 er or not the Department of Homeland Security ac-
 5 cepts custody of the alien. The obligor on the bond
 6 shall be deemed to have substantially performed all
 7 conditions imposed by the terms of the bond, and
 8 shall be released from liability on the bond, if the
 9 alien is produced within such time limit.”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 subsection (a) shall take effect on the date of the enact-
 12 ment of this division and shall apply to all immigration
 13 bonds posted before, on, or after such date.

14 **TITLE II—IMPROVED SECURITY** 15 **FOR DRIVERS’ LICENSES AND** 16 **PERSONAL IDENTIFICATION** 17 **CARDS**

18 **SEC. 201. DEFINITIONS.**

19 In this title, the following definitions apply:

20 (1) DRIVER’S LICENSE.—The term “driver’s li-
 21 cense” means a motor vehicle operator’s license, as
 22 defined in section 30301 of title 49, United States
 23 Code.

24 (2) IDENTIFICATION CARD.—The term “identi-
 25 fication card” means a personal identification card,

1 as defined in section 1028(d) of title 18, United
2 States Code, issued by a State.

3 (3) SECRETARY.—The term “Secretary” means
4 the Secretary of Homeland Security.

5 (4) STATE.—The term “State” means a State
6 of the United States, the District of Columbia, Puer-
7 to Rico, the Virgin Islands, Guam, American Samoa,
8 the Northern Mariana Islands, the Trust Territory
9 of the Pacific Islands, and any other territory or
10 possession of the United States.

11 **SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND**
12 **ISSUANCE STANDARDS FOR FEDERAL REC-**
13 **OGNITION.**

14 (a) MINIMUM STANDARDS FOR FEDERAL USE.—

15 (1) IN GENERAL.—Beginning 3 years after the
16 date of the enactment of this division, a Federal
17 agency may not accept, for any official purpose, a
18 driver’s license or identification card issued by a
19 State to any person unless the State is meeting the
20 requirements of this section.

21 (2) STATE CERTIFICATIONS.—The Secretary
22 shall determine whether a State is meeting the re-
23 quirements of this section based on certifications
24 made by the State to the Secretary of Transpor-
25 tation. Such certifications shall be made at such

1 times and in such manner as the Secretary of
2 Transportation, in consultation with the Secretary of
3 Homeland Security, may prescribe by regulation.

4 (b) MINIMUM DOCUMENT REQUIREMENTS.—To meet
5 the requirements of this section, a State shall include, at
6 a minimum, the following information and features on
7 each driver's license and identification card issued to a
8 person by the State:

9 (1) The person's full legal name.

10 (2) The person's date of birth.

11 (3) The person's gender.

12 (4) The person's driver's license or identifica-
13 tion card number.

14 (5) A digital photograph of the person.

15 (6) The person's address of principle residence.

16 (7) The person's signature.

17 (8) Physical security features designed to pre-
18 vent tampering, counterfeiting, or duplication of the
19 document for fraudulent purposes.

20 (9) A common machine-readable technology,
21 with defined minimum data elements.

22 (c) MINIMUM ISSUANCE STANDARDS.—

23 (1) IN GENERAL.—To meet the requirements of
24 this section, a State shall require, at a minimum,
25 presentation and verification of the following infor-

1 mation before issuing a driver's license or identifica-
2 tion card to a person:

3 (A) A photo identity document, except that
4 a non-photo identity document is acceptable if
5 it includes both the person's full legal name and
6 date of birth.

7 (B) Documentation showing the person's
8 date of birth.

9 (C) Proof of the person's social security
10 account number or verification that the person
11 is not eligible for a social security account num-
12 ber.

13 (D) Documentation showing the person's
14 name and address of principal residence.

15 (2) SPECIAL REQUIREMENTS.—

16 (A) IN GENERAL.—To meet the require-
17 ments of this section, a State shall comply with
18 the minimum standards of this paragraph.

19 (B) EVIDENCE OF LAWFUL STATUS.—A
20 State shall require, before issuing a driver's li-
21 cense or identification card to a person, valid
22 documentary evidence that the person—

23 (i) is a citizen of the United States;

1 (ii) is an alien lawfully admitted for
2 permanent or temporary residence in the
3 United States;

4 (iii) has conditional permanent resi-
5 dent status in the United States;

6 (iv) has an approved application for
7 asylum in the United States or has entered
8 into the United States in refugee status;

9 (v) has a valid, unexpired non-
10 immigrant visa or nonimmigrant visa sta-
11 tus for entry into the United States;

12 (vi) has a pending application for asy-
13 lum in the United States;

14 (vii) has a pending or approved appli-
15 cation for temporary protected status in
16 the United States;

17 (viii) has approved deferred action
18 status; or

19 (ix) has a pending application for ad-
20 justment of status to that of an alien law-
21 fully admitted for permanent residence in
22 the United States or conditional perma-
23 nent resident status in the United States.

24 (C) TEMPORARY DRIVERS' LICENSES AND

25 IDENTIFICATION CARDS.—

1 (i) IN GENERAL.—If a person pre-
2 sents evidence under any of clauses (v)
3 through (ix) of subparagraph (B), the
4 State may only issue a temporary driver's
5 license or temporary identification card to
6 the person.

7 (ii) EXPIRATION DATE.—A temporary
8 driver's license or temporary identification
9 card issued pursuant to this subparagraph
10 shall be valid only during the period of
11 time of the applicant's authorized stay in
12 the United States or, if there is no definite
13 end to the period of authorized stay, a pe-
14 riod of one year.

15 (iii) DISPLAY OF EXPIRATION
16 DATE.—A temporary driver's license or
17 temporary identification card issued pursu-
18 ant to this subparagraph shall clearly indi-
19 cate that it is temporary and shall state
20 the date on which it expires.

21 (iv) RENEWAL.—A temporary driver's
22 license or temporary identification card
23 issued pursuant to this subparagraph may
24 be renewed only upon presentation of valid
25 documentary evidence that the status by

1 which the applicant qualified for the tem-
2 porary driver's license or temporary identi-
3 fication card has been extended by the Sec-
4 retary of Homeland Security.

5 (3) VERIFICATION OF DOCUMENTS.—To meet
6 the requirements of this section, a State shall imple-
7 ment the following procedures:

8 (A) Before issuing a driver's license or
9 identification card to a person, the State shall
10 verify, with the issuing agency, the issuance, va-
11 lidity, and completeness of each document re-
12 quired to be presented by the person under
13 paragraph (1) or (2).

14 (B) The State shall not accept any foreign
15 document, other than an official passport, to
16 satisfy a requirement of paragraph (1) or (2).

17 (C) Not later than September 11, 2005,
18 the State shall enter into a memorandum of un-
19 derstanding with the Secretary of Homeland
20 Security to routinely utilize the automated sys-
21 tem known as Systematic Alien Verification for
22 Entitlements, as provided for by section 404 of
23 the Illegal Immigration Reform and Immigrant
24 Responsibility Act of 1996 (110 Stat. 3009–
25 664), to verify the legal presence status of a

1 person, other than a United States citizen, ap-
2 plying for a driver's license or identification
3 card.

4 (d) OTHER REQUIREMENTS.—To meet the require-
5 ments of this section, a State shall adopt the following
6 practices in the issuance of drivers' licenses and identifica-
7 tion cards:

8 (1) Employ technology to capture digital images
9 of identity source documents so that the images can
10 be retained in electronic storage in a transferable
11 format.

12 (2) Retain paper copies of source documents for
13 a minimum of 7 years or images of source docu-
14 ments presented for a minimum of 10 years.

15 (3) Subject each person applying for a driver's
16 license or identification card to mandatory facial
17 image capture.

18 (4) Establish an effective procedure to confirm
19 or verify a renewing applicant's information.

20 (5) Confirm with the Social Security Adminis-
21 tration a social security account number presented
22 by a person using the full social security account
23 number. In the event that a social security account
24 number is already registered to or associated with
25 another person to which any State has issued a driv-

1 er's license or identification card, the State shall re-
2 solve the discrepancy and take appropriate action.

3 (6) Refuse to issue a driver's license or identi-
4 fication card to a person holding a driver's license
5 issued by another State without confirmation that
6 the person is terminating or has terminated the driv-
7 er's license.

8 (7) Ensure the physical security of locations
9 where drivers' licenses and identification cards are
10 produced and the security of document materials
11 and papers from which drivers' licenses and identi-
12 fication cards are produced.

13 (8) Subject all persons authorized to manufac-
14 ture or produce drivers' licenses and identification
15 cards to appropriate security clearance requirements.

16 (9) Establish fraudulent document recognition
17 training programs for appropriate employees en-
18 gaged in the issuance of drivers' licenses and identi-
19 fication cards.

20 (10) Limit the period of validity of all driver's
21 licenses and identification cards that are not tem-
22 porary to a period that does not exceed 8 years.

23 **SEC. 203. LINKING OF DATABASES.**

24 (a) IN GENERAL.—To be eligible to receive any grant
25 or other type of financial assistance made available under

1 this title, a State shall participate in the interstate com-
2 pact regarding sharing of driver license data, known as
3 the “Driver License Agreement”, in order to provide elec-
4 tronic access by a State to information contained in the
5 motor vehicle databases of all other States.

6 (b) REQUIREMENTS FOR INFORMATION.—A State
7 motor vehicle database shall contain, at a minimum, the
8 following information:

9 (1) All data fields printed on drivers’ licenses
10 and identification cards issued by the State.

11 (2) Motor vehicle drivers’ histories, including
12 motor vehicle violations, suspensions, and points on
13 licenses.

14 **SEC. 204. TRAFFICKING IN AUTHENTICATION FEATURES**
15 **FOR USE IN FALSE IDENTIFICATION DOCU-**
16 **MENTS.**

17 (a) CRIMINAL PENALTY.—Section 1028(a)(8) of title
18 18, United States Code, is amended by striking “false au-
19 thentication features” and inserting “false or actual au-
20 thentication features”.

21 (b) USE OF FALSE DRIVER’S LICENSE AT AIR-
22 PORTS.—

23 (1) IN GENERAL.—The Secretary shall enter,
24 into the appropriate aviation security screening
25 database, appropriate information regarding any

1 person convicted of using a false driver's license at
2 an airport (as such term is defined in section 40102
3 of title 49, United States Code).

4 (2) FALSE DEFINED.—In this subsection, the
5 term “false” has the same meaning such term has
6 under section 1028(d) of title 18, United States
7 Code.

8 **SEC. 205. GRANTS TO STATES.**

9 (a) IN GENERAL.—The Secretary may make grants
10 to a State to assist the State in conforming to the min-
11 imum standards set forth in this title.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary for
14 each of the fiscal years 2005 through 2009 such sums as
15 may be necessary to carry out this title.

16 **SEC. 206. AUTHORITY.**

17 (a) PARTICIPATION OF SECRETARY OF TRANSPOR-
18 TATION AND STATES.—All authority to issue regulations,
19 set standards, and issue grants under this title shall be
20 carried out by the Secretary, in consultation with the Sec-
21 retary of Transportation and the States.

22 (b) COMPLIANCE WITH STANDARDS.—All authority
23 to certify compliance with standards under this title shall
24 be carried out by the Secretary of Transportation, in con-

1 sultation with the Secretary of Homeland Security and the
2 States.

3 (c) EXTENSIONS OF DEADLINES.—The Secretary
4 may grant to a State an extension of time to meet the
5 requirements of section 202(a)(1) if the State provides
6 adequate justification for noncompliance.

7 **SEC. 207. REPEAL.**

8 Section 7212 of the Intelligence Reform and Ter-
9 rorism Prevention Act of 2004 (Public Law 108–458) is
10 repealed.

11 **SEC. 208. LIMITATION ON STATUTORY CONSTRUCTION.**

12 Nothing in this title shall be construed to affect the
13 authorities or responsibilities of the Secretary of Trans-
14 portation or the States under chapter 303 of title 49,
15 United States Code.

16 **TITLE III—BORDER INFRA-**
17 **STRUCTURE AND TECH-**
18 **NOLOGY INTEGRATION**

19 **SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.**

20 (a) STUDY.—The Under Secretary of Homeland Se-
21 curity for Border and Transportation Security, in con-
22 sultation with the Under Secretary of Homeland Security
23 for Science and Technology and the Under Secretary of
24 Homeland Security for Information Analysis and Infra-
25 structure Protection, shall study the technology, equip-

1 ment, and personnel needed to address security
2 vulnerabilities within the United States for each field of-
3 fice of the Bureau of Customs and Border Protection that
4 has responsibility for any portion of the United States bor-
5 ders with Canada and Mexico. The Under Secretary shall
6 conduct follow-up studies at least once every 5 years.

7 (b) REPORT TO CONGRESS.—The Under Secretary
8 shall submit a report to Congress on the Under Sec-
9 retary’s findings and conclusions from each study con-
10 ducted under subsection (a) together with legislative rec-
11 ommendations, as appropriate, for addressing any security
12 vulnerabilities found by the study.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Department of
15 Homeland Security Directorate of Border and Transpor-
16 tation Security such sums as may be necessary for fiscal
17 years 2006 through 2011 to carry out any such rec-
18 ommendations from the first study conducted under sub-
19 section (a).

20 **SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES**
21 **FOR BORDER SECURITY.**

22 (a) PILOT PROGRAM.—Not later than 180 days after
23 the date of the enactment of this division, the Under Sec-
24 retary of Homeland Security for Science and Technology,
25 in consultation with the Under Secretary of Homeland Se-

1 curity for Border and Transportation Security, the Under
2 Secretary of Homeland Security for Information Analysis
3 and Infrastructure Protection, and the Secretary of De-
4 fense, shall develop a pilot program to utilize, or increase
5 the utilization of, ground surveillance technologies to en-
6 hance the border security of the United States. In devel-
7 oping the program, the Under Secretary shall—

8 (1) consider various current and proposed
9 ground surveillance technologies that could be uti-
10 lized to enhance the border security of the United
11 States;

12 (2) assess the threats to the border security of
13 the United States that could be addressed by the
14 utilization of such technologies; and

15 (3) assess the feasibility and advisability of uti-
16 lizing such technologies to address such threats, in-
17 cluding an assessment of the technologies considered
18 best suited to address such threats.

19 (b) ADDITIONAL REQUIREMENTS.—

20 (1) IN GENERAL.—The pilot program shall in-
21 clude the utilization of a variety of ground surveil-
22 lance technologies in a variety of topographies and
23 areas (including both populated and unpopulated
24 areas) on both the northern and southern borders of

1 the United States in order to evaluate, for a range
2 of circumstances—

3 (A) the significance of previous experiences
4 with such technologies in homeland security or
5 critical infrastructure protection for the utiliza-
6 tion of such technologies for border security;

7 (B) the cost, utility, and effectiveness of
8 such technologies for border security; and

9 (C) liability, safety, and privacy concerns
10 relating to the utilization of such technologies
11 for border security.

12 (2) TECHNOLOGIES.—The ground surveillance
13 technologies utilized in the pilot program shall in-
14 clude the following:

15 (A) Video camera technology.

16 (B) Sensor technology.

17 (C) Motion detection technology.

18 (c) IMPLEMENTATION.—The Under Secretary of
19 Homeland Security for Border and Transportation Secu-
20 rity shall implement the pilot program developed under
21 this section.

22 (d) REPORT.—Not later than 1 year after imple-
23 menting the pilot program under subsection (a), the
24 Under Secretary shall submit a report on the program to
25 the Senate Committee on Commerce, Science, and Trans-

1 portation, the House of Representatives Committee on
2 Science, the House of Representatives Committee on
3 Homeland Security, and the House of Representatives
4 Committee on the Judiciary. The Under Secretary shall
5 include in the report a description of the program together
6 with such recommendations as the Under Secretary finds
7 appropriate, including recommendations for terminating
8 the program, making the program permanent, or enhance-
9 ing the program.

10 **SEC. 303. ENHANCEMENT OF COMMUNICATIONS INTEGRA-**
11 **TION AND INFORMATION SHARING ON BOR-**
12 **DER SECURITY.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of the enactment of this division, the Secretary of
15 Homeland Security, acting through the Under Secretary
16 of Homeland Security for Border and Transportation Se-
17 curity, in consultation with the Under Secretary of Home-
18 land Security for Science and Technology, the Under Sec-
19 retary of Homeland Security for Information Analysis and
20 Infrastructure Protection, the Assistant Secretary of Com-
21 merce for Communications and Information, and other ap-
22 propriate Federal, State, local, and tribal agencies, shall
23 develop and implement a plan—

24 (1) to improve the communications systems of
25 the departments and agencies of the Federal Gov-

1 ernment in order to facilitate the integration of com-
2 munications among the departments and agencies of
3 the Federal Government and State, local government
4 agencies, and Indian tribal agencies on matters re-
5 lating to border security; and

6 (2) to enhance information sharing among the
7 departments and agencies of the Federal Govern-
8 ment, State and local government agencies, and In-
9 dian tribal agencies on such matters.

10 (b) REPORT.—Not later than 1 year after imple-
11 menting the plan under subsection (a), the Secretary shall
12 submit a copy of the plan and a report on the plan, includ-
13 ing any recommendations the Secretary finds appropriate,
14 to the Senate Committee on Commerce, Science, and
15 Transportation, the House of Representatives Committee
16 on Science, the House of Representatives Committee on
17 Homeland Security, and the House of Representatives
18 Committee on the Judiciary.

 Passed the House of Representatives March 16,
2005.

Attest:

Clerk.

109TH CONGRESS
1ST SESSION

H. R. 1268

AN ACT

Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.